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A History of Church Discipline in Scotland.

A History of Church Discipline in Scotland.

BY

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ABERDEEN:
W. & W. LINDSAY, 28 MARKET STREET.

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"Christ loved the church, and gave himself up for it, that he might sanctify it, having cleansed it by the washing of water with the word, that he might present the church to himself, a glorious church, not having spot, or wrinkle, or any such thing, but that it should be holy and without blemish."—Eph. v., 25-27.

"Finally, there can be no form of spiritual society without the exercise of some form of discipline. It is a spiritual society precisely because it is not made up of all men but is selected upon a principle. As the efficacy of the Church must depend upon its purity, nothing can be of greater importance for it than the exercise of discipline. The chaff never accomplishes anything for the wheat except to cause doubt of its vitality. Hence in times of trial when God Himself has winnowed the Church and left it but a very little remnant, instead of discouragement at a result so small, there has ever been the largest hope and expectation at a promise so great. But the Church cannot by the exercise of any rule and mere crude elimination accomplish the same object. She may thereby exclude the weak in faith but she will never exclude the strong in respectability. She must proceed in a more Christlike way and be in the world as He was, with her fan in her hand. To do that she only needs to be doing her work in His spirit. That society best exercises discipline which directly rejects none unless the life is a flagrant denial of the profession, but which, by its very devotion to the things of the Kingdom of God, attracts only those who are seeking them, and repels those who have sought its fellowship for meaner ends ; and that form of organisation must be worst which attempts by arbitrary selection to accomplish a task so difficult and delicate."—Prof. John Oman, "*Vision and Authority.*"

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PREFATORY NOTE.

THIS book does not treat of Church Discipline from the antiquarian point of view, which, however interesting and frequently entertaining as illustrating ecclesiastical and social customs of the past, has no value for the modern world. Rather is this an attempt to trace the principles underlying Discipline throughout the various periods of the history of the Church in Scotland.

Originating in the New Testament, discipline of the individual in the primitive Church was partly private and partly public. Following upon private confession—always the mode of the confession in the early Church—there was public penance, also a distinctive feature of Discipline in the earlier period. But in time the publicity of the penance decayed, though the practice of it was continued in the sentences of the Bishops' Courts. Meanwhile, however, the discipline of the individual, wholly in private, begun experimentally and unofficially in the Celtic Church, was ultimately regularised and authorised by the Fourth Lateran Council as the Sacrament of Penance.

The change over at the Reformation has significant features. A democratic note is discerned, which soon disappears. But the discipline of the individual is brought back from the privacy of the Confessional to the publicity of the Courts of the Reformed Church. Yet once more the trend is from that mode to private dealing. Such formal discipline as exists is in the hands of the Minister, either by law or by consuetude.

At this point this history becomes a study of prevailing tendencies. There are many indications that Discipline will in the immediate future occupy much of the attention of the Church of Scotland and that any overtures for a yet wider union of the Churches will necessitate a more intensive study of and a greater regard for the functions of Discipline, as a "mark" of the true Church. It is hoped that this historical review of the subject may contribute to the solution of the practical problems of Church Discipline that are emerging.

IVO M. CLARK.

FARNELL, July, 1929.

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INTRODUCTION.

A.—The Origins of Church Discipline in the New Testament; its Development in the Apostolic Church.

IT were well not to give a hardened definition of Church Discipline, till, having looked into the origins of the subject in the New Testament and the early Church, we form some idea as to what came to be regarded as matters for discipline in the Church and how the Church dealt with them. The word 'discipline' as ecclesiastically used has borne several connotations, and it is only in the course of the study of the subject that we shall come to understand the particular meaning of it as the corrective treatment of Church members, who are transgressors of its standards through ignorance or wilfulness, as distinct from certain aspects of polity and government, which are sometimes included under the term 'discipline,' and from the even wider use of the word as applied to the spiritual training of the individual in the Christian life.

The Old Testament cannot be entirely ignored. In certain matters connected with the relation of the sexes the Book of Leviticus is still the law of the Church, and even of the State. Some of the powers of the Sanhedrin seem to have come down through the channel of the Christian Church, and it is of more than antiquarian interest and would repay the study to compare the similarity of function possessed and of forms and procedure followed by the ancient Jewish court and the courts of the Church of Scotland.

But it is in the New Testament we find the *fons et origo* of Church Discipline, and the spirit which, more or less, has directed its growth and its application through the centuries. The three foundation texts upon which this function of the Church is based are:—Matthew xvi., 18-19, Christ's promise to Peter; Matthew xviii., 15-18, Christ's words to the disciples; John, xx., 19-23, the recorded commission of the Risen Christ to the apostles, the commission upon which the whole peni-

tential system of the Church ultimately rests.[1] It seems to be agreed that there are no manuscript doubts as to the genuineness of these passages. Apart altogether from the questions of the Primacy of Peter and the Sacrament of Penance, these passages separately or collectively give legislative and disciplinary authority to the Church. The passage in Matthew xvi. is a promise of this authority to Peter, and in Matthew xviii. to the disciples, and John xx. records the actual fulfilment of the promise by the conveyance of that authority to them. They receive authority to remit or retain sins, with no mention of the power of binding or loosing in heaven. The second passage gives some hint as to the procedure to be followed in the case of a sinning brother. There is in it a hint of a differentiation between private and public sin; private sin may be dealt with by another member of the Church for the reclamation of the offender, but if unsuccessful, by the Church as a court, a mark that sin is of public and social significance. If the brother refuses to accept the jurisdiction of the Church, he is to be treated as an outsider and left to a secular court.

In the first two passages the binding and loosing are interpreted by Bishop Gore as the action of the legislative authority of the Church, declaring what shall be allowed and disallowed within the Christian Society. The passage in S. John is the warrant for the disciplinary action of the Church as applied to persons, the giving of absolution to or judgment against the offender according as he has sinned or not against the Church's legislation.[2]

These powers, inherent perhaps in the Church which grew out of its loyalty to Christ, and here also expressly committed to it, are not widely exercised by the Apostolic Church, of which the life and work are pictured for us in the Acts of the Apostles. Ananias and Sapphira are judged by God, yet the rebuke is given them by Peter. This is the first recorded

1 Watkins: A History of Penance, p. 8. 2 Gore: The Social Teaching of the Sermon on the Mount.—C.S.U. Pamphlet, p. 1.

instance of the exercise of Church Discipline, the question at issue being a defect of moral conduct in a matter of Church finance. It is noteworthy too that to prevent looseness in the administration of its charity, the Church appointed deacons for its better management. In fact we see the beginnings of Church organisation and as a necessary corollary the growth of discipline for the better ordering of Church life. Another early instance of its use is the sentence of virtual suspension from the fellowship of the Church pronounced by Peter against Simon Magus, when he offered money for the gift of the Holy Spirit (Acts viii.). It seems to have been effectual to his repentance.

Acts xv. records the decision of the Council of Jerusalem as to whether or not it was necessary for a Christian to be circumcised. This was a question of ceremonial or mode of admission into the Christian Church. This Apostolic Council (which, by the way, is the only General Council that the Confession of Faith of 1645 holds to be infallible) laid it down that members of the Church should abstain from things sacrificed to idols, and from blood, and from things strangled, and from fornication. (Acts xv., 29.) This has been called the first Apostolic Decree, and it is the first decree of the Church. Its importance cannot be exaggerated, but its significance depends upon the text of it that is accepted. There are many various readings in the manuscripts and early writings. They fall into two groups, the Eastern and the Western texts. The Eastern makes this passage a ceremonial regulation of diet, the Western makes the decree a prohibition of the three offences of idolatry, fornication, and homicide. A choice has to be made between the two readings of this decree, and it would seem as if the second reading is to be preferred. This whole question is discussed learnedly by Watkins,[1]

1 Watkins: A History of Penance, pp. 11-14. For convenience the references to Watkins will be found to be in most cases the references to the original authorities, Watkins having made a complete collection of all the passages referring to discipline in Scripture, the Fathers, the Councils, etc., to 1215.

founding on a monograph by Dr. Gotthold Resch. He also cites Tertullian and Pacian as apparently founding their discipline on what must be the second reading of the text. "Thus S. Pacian towards the end of four Christian centuries, is "at one with Tertullian at the end of two, in understanding "the Apostolic Decree to be concerned with the three great "moral offences of idolatry, impurity, and bloodshed; and in "referring to the Apostolic Council as the occasion when the "Holy Spirit selected these three sins as above others capital "or mortal."[1] These three capital sins were at one time placed outside the absolution of the Church in this life, and their judgment left to God. Later these classes of offences were admitted to absolution, yet they were always regarded as deserving the severest penance. In time the heinousness of these sins made for the division of sins into venial and mortal, "sins unto death" and not unto death. By Baptism men were admitted into the Church, into a state of grace and life. By mortal sin a man reverted to a state of sin and death, and it was held, if he remain unrepentant therein, the state of death would be perpetuated. If he repented, the Church might admit to reconciliation, and it was believed, at that point of time the Lord ratified the acceptance. But if the Church retained the sin, i.e., held the sinner bound, the Lord also held the sinner bound in this life. If the penitence was genuine, the acceptance by the Lord was assured. Even while on earth the sinner might be bound by the Church, i.e., his penance continued and absolution not granted, yet he was within the pale of grace and blessing. Anyone who was genuinely penitent would seek reconciliation, though the Church for a time might still hold him bound. He who sought no such reconciliation held himself bound as the Church held him bound.[2]

Further evidences of the legislative and disciplinary development of the Church are to be found in the Apostolic writings. The earliest of these are S. Paul's Epistles to the

1 Watkins: A History of Penance, p. 14. 2 *ibid.*, pp. 14-16.

Thessalonians. In I. Thessalonians v., 14, the Christians are urged to maintain discipline, and in II. Thessalonians iii., 6, to withdraw themselves from every brother that walketh disorderly. The class of offender referred to in both of these passages is that party in the Church, which under the influence of the Parousia hope abandoned their ordinary occupations and became parasites on the liberality of the Church. Yet II. Thessalonians iii., 15, directs that these, though they are to be disciplined, are to be counted not enemies, but are to be admonished as brothers.

A later stage of discipline is that found to be already practised in I. Corinthians, Galatians, and Romans. I. Corinthians v. records one of the earliest cases of discipline, an exceptionally bad case of incest. S. Paul is concerned not merely with the offence in itself, but with the fact that the Church had tolerated the scandal, and he calls on the Church to excommunicate the incestuous person. The same chapter treats of discipline generally. There is to be admonition first, then separation from the Church. A punitive note enters, but there is always the hope of the ultimate redemption of the offender. But clearly also the good of the Church as a whole is in the Apostle's mind. This discipline also is to be applied only to Christians, and not to outsiders, as I. Corinthians v., 12-13, shows, a text that has some bearing later, when the Church would have forced its decrees upon the State or on those outside her pale. Incidentally also we see S. Paul's belief that the Church should judge its own members, and he holds it a scandal that Christians should sue each other before heathen tribunals (vi., 1-11), which gives rise to the later developments in the Canon Law to the effect that Christians are not to sue before secular courts. This is symtomatic of the need now begun to be felt that the Church in the midst of its pagan environment could not trust to 'outside' opinion as to the Christian life and morals, or to be judged by pagan standards, but must formulate her own standards of life and her own conception of law, and try her own members by these standards,

which belief she has continued to assert.

In I. Corinthians vii., problems of marriage and divorce are already vexing the Church and are referred to by S. Paul. His readiness to deal with them is a hint of the large place these questions take in the later legislative measures of the Church. So also are all the questions raised in I. Timothy ii. to v. Galatians i., 9, seems to indicate that excommunication with anathema is the fitting sentence of the Church on heresy. Later the Apostolic Church's attitude towards blasphemy and heresy can be gathered from its treatment of Hymenaeus and Alexander and others as recorded in I. Timothy i., 20, II. Timothy ii., 17, 18, Titus i., 10, 11, Titus iii., 10, and also II. John 10-11.

These instances of the exercise of discipline by the Apostolic Church are sufficient to show that the subject matter of discipline falls into two main classes:—(1) Doctrine and teaching, questions of ritual and ceremonial; worship and ordinances coming also under this head. (2) moral conduct.

In this discipline we note several distinct stages:—

(1) Admonition, given twice in Titus iii., 10.

(2) Withdrawing from the offender or shutting out of the fellowship, as in II. Thessalonians iii., 6.

(3) Excommunication as in I. Timothy i., 20. This is probably what came to be the lesser excommunication of a later time. The practice in the Jewish synagogue is referred to in S. Luke vi., 22, "separating you from their company." We have Christ's word that it is better one member be cut off than the whole body perish.

(4) Final anathema as in Galatians i., 9, the greater excommunication which was very seldom used in the primitive Church.

(5) Restitution. There is evidence also in the New Testament of the absolution and restitution of offenders upon repentance. II. Corinthians ii., 5-10, is a difficult passage. It may refer to the incestuous person or it

may not. The Corinthian Church is prepared to forgive the offender. The forgiveness Paul exercises is under the conviction that what he is doing is done by Christ. "It is exercised in the person of Christ, yet motived by considerations of circumstance." [1] So the excommunication is terminated by an official act and the offender is restored to the fellowship. Galatians vi., 1, and Jude 22, 23, point also to the desire of the Church to restore offenders.

From a consideration of all the references in the New Testament to discipline, there seems to have been in embryo a form of process modelled to some extent on the lines followed by the Sanhedrin. We see evidences of the following points of regular procedure :—

(1) In the Council of Jerusalem met for legislative action, the bishop or minister of the local Church presided. (Acts xv.)

(2) In II. Corinthians ii., 6, a severe censure had apparently been passed by the Corinthian Church upon an offender "by the many." That must mean by a majority, so that it would appear sentence was by a majority vote.

(3) The same passage implies the absolution was pronounced in the name of Christ, as the sentence in I. Corinthian v., 4, was also in his name.

(4) The Commission was given by Christ to his Apostles. I. Timothy v., 20, and Titus iii., 10, presuppose this discipline is entrusted to office-bearers, but II. Thessalonians iii., 6-7, and Jude 23, seem to entrust it to the Church or congregation. Marshall says that the execution of this discipline was lodged in the hands of the bishop,[2] i.e., the chief minister, but whether this minister was over one congregation or a group of churches, it is difficult to say. The point is

1 Watkins : A History of Penance, p. 21. 2 Marshall : Penitential Discipline, p. 91.

that it seems to have been entrusted to the Ministry, but the people had their part in it as moved to compassion, and as interceding for the penitents, and sometimes in the Reconciliation by the kiss of peace.

(5) Censure, if it was passed by a court, was made in presence of all the Church (I. Timothy v., 20). It was to be a deterrent to evil-doers.

(6) Two or three witnesses were necessary, at least in the case of an elder, if an accusation were made against him. (I. Timothy v., 19)

(7) Something has been said of physical penalties being imposed by the Apostles. The case of Ananias and Sapphira is an act of God. Elymas the sorcerer was not of the Church, nor was he tried by the Church. His blindness was visited upon him by the Apostle. Then there is the passage in I. Corinthian v., 5, describing the sentence of handing over to Satan for the destruction of the flesh. It may amount to a declaration that sin will work itself out upon an offender. His exclusion from the means of grace would work upon his sinful nature (flesh) to destroy it and his spirit be saved at the Second Coming. Watkins holds that this sentence is a thrusting out of the Church, the realm of God, into the world, the realm of Satan, in which the deprivation of spiritual helps was the penalty. One who felt this loss might ask back into the fold and be accepted as a penitent, when the delivery to Satan may be said to be effective. If he chose to remain in the realm of Satan, that was spiritual death.

Nothing in the New Testament gives direct warrant for physical penalties, nor is there evidence of the "satisfaction" afterwards required by the Roman and Reformed Churches, although the Apostolic Church must have had a way of satisfying itself as to genuine repentance. Time is given for repentance.

> The Church of Thyatira had suffered the woman Jezebel, who called herself a prophetess, to seduce her members to commit two of the mortal sins. "And I gave her time that she should repent, and she willeth not to repent of her fornication." (Revelation ii., 21.) Time was evidently given for repentance, and some test as to whether penitence existed or not was applied.

On the whole such discipline as is recorded by the Revelation of S. John as being applied to the seven Churches tends to greater leniency than that of the earlier New Testament writings, reflecting perhaps the gentler spirit of the aged Apostle.

B.—Discipline in the Sub-Apostolic Church, and the Period to 450 A.D.

Generally in the earlier part of this period there is little in the way of discipline. There is development of organisation and government. No doubt in a sense government includes discipline, for the offices of bishop, presbyter, and deacon arose to meet the emergencies and problems with which the Church was confronted. Discipline exists under any system of government, and at the Reformation it was claimed as a true mark of the Church.

The Didache (110 A.D.) and Justin Martyr (130-150) imply that at this time the Church was taking disciplinary action against offenders. *The Didache* has "Thou shalt give a ransom for thy sin." In that part of the *Apostolic Constitutions and Canons* now believed authentic, we find the beginning of the idea that almsgiving cancels sin and the beginning of Canon Law; e.g., the work expresses the idea that the bishop must be well educated; if he be not sufficiently educated, he must have exceptional spiritual qualifications—a point of view that still has weight in the admission of Ministers by the

General Assembly of the Church of Scotland, and in these days of dearth of Ministers the admission of such men is occasionally resorted to as a solution. In the *Canons* the wandering evangelist comes into disrepute, and he must be appointed to a congregation. The "Ministerium Vagum" has been a subject of legislation in the Church down to our day. Section iii. makes it appear as if discipline were in the hands of the deacons.

It is in Tertullian (flor. 200 A.D.) that we find a great development in discipline. The whole conduct of the Christian comes into his purview of discipline. He is one of the first to emphasise the distinction between venial and mortal sins. He appeals to "use and wont" as the criterion in matters of discipline. He is the first Puritan. When the Pope Zephyrinus would include in the Church as many as possible, Tertullian would strengthen the Church by purging it. He would postpone Baptism till there would be less chance of falling away; and for the second repentance, i.e., after Baptism, he holds "satisfaction by penance" necessary for venial sins. There are seven mortal offences after Baptism for which there can be no restoration—murder, idolatry, theft, apostacy, blasphemy, fornication, adultery. Thus in Tertullian more than the germs of the system of Penance are found. Prayer and weeping and fasting are required of penitents.

After Tertullian we find canons of discipline being promulgated by Fathers of the Church and great Churchmen. There are collections by Dionysius the Great. Gregory Thaumaturgus is among the first to put in operation in his diocese of Neo-Caesarea a graded system of penance. In these cases there is no reference to Scripture or even to tradition. These canons are the first attempts of Christian men in high authority to embody Christian principles in Christian law.

The days of the Fathers are over and the promulgations of Canons by the Councils of national churches now rapidly increase—Elvira (306 A.D.), Arles, Ancyra, Neo-Caesarea, Laodicea (320). In these we see the distinction between

mortal and venial sin established (Elvira). The typical punishment is still exclusion from Communion—either for a time or for good. We see also a marking out of the social evils in which the Christian must have no participation, usury, theatricals, charioteering, gambling, and extravagance in dress (Elvira).

But four years later at Ancyra, Penance becomes systematised. The older exomologesis is broken up into grades through some or all of which the penitent had to pass. There were five stages. (1) The Mourners. These were really suppliants for Penance before they had been admitted. They were outside the Church, and outside the Church door begged to be allowed to do Penance. (2) The Hearers. This is really the first stage of penance, to which admission is given. They are allowed to attend the preaching and reading of Scripture, and to be just within the door of the Church. (3) The Fallers. It is granted them to come into the nave and to take part in prayer up to the celebration of the Eucharist. (4) The Bystanders. They may remain throughout the whole service, but do not partake of the Eucharist. (5) The Restored. They are at last allowed to communicate.[1] The canons seek to lay down the grades of penance to be assigned, and the duration of penance in each grade.

On the fulfilment of the penance, whatever the length of its various stages was, there was the act of reconciliation, at first by the bishop, later by the priest, and the kiss of peace from the congregation. It is to be noted how this penance is grouped round the Liturgy, the Public Worship of the Church. It was really on this model that the Church of Scotland in 1567, as we shall see, based her Order of Public Repentance.

In 320 Neo-Caesarea has a canon against marriage with deceased wife's sister; Arles has one against the non-residence of clergy, which in one form or another has persisted till our day. These Councils, like the General Assembly, promulgate

1 Watkins: pp. 284-5, 471. Also Marshall, p. 49 *et seq.* Also Moeller: Vol. II., p. 264-5.

their laws without giving reasons. But we can see how they found on Scripture and the Fathers, and how these canons all came to have a like authority down to Nicaea. Then the Pope also claimed the right of promulgating canons.

The scope of this developed discipline is still like that of 100 or 150 years earlier. (1) Doctrine, including the due and right performance of worship. The Fathers and the Councils have much against heresy and apostacy. A long catechumenate, sometimes of two or three years, is ordered by these early authorities. (2) The morals of Christians in every sphere of life. They are diligent in making marriage laws to preserve the Church against pagan corruption. Athenagoras records "how Christians were not married according to Roman law, but according to laws laid down by themselves."[1] (3) The punishment for the violation of these Christian laws was usually excommunication in varying degrees of severity. The various "acts" of penance preceding restitution were all of a spiritual nature. There was no undue harshness, and no desire to shut the door for ever on penitents, though tolerance was an evil combated by Cyprian and Tertullian. After the times of persecution were over, it is noticeable how discipline stiffened up. And certainly in the pre-Constantine Church there was nothing in the way of corporal penalties. In the matter of absolution so far it is recognised forgiveness is of God and not of the Church. The Church has no sovereign right but as speaking for God. Yet Christ teaches us we can forgive. "Forgive us our debts, as we forgive our debtors." An individual is capable of a real act of forgiveness. May not the Church therefore really forgive one of its members upon a reasonable show of repentance?

Marshall holds that for the first 400 years there does not appear to be a single case of absolution without penance having first been performed.[2] The exomologesis was with a view of proving to the Church the earnestness of the repentance,

1 Donaldson: History of Christian Literature and Doctrine, III., p. 173.
2 Marshall: Penitential Discipline, p. 75.

the desire of the penitent for Communion, and it was also an appeal to the Church's sympathy. Upon the performance of the exomologesis the minister of reconciliation acted as intercessor so far as the conscience of the penitent was concerned, and his declaration of restoration was an authoritative, judicial act.

As we contemplate the Primitive Church, we see it as an organised Society, under rule and order. The work of the Apostles and their successors was to make that Society attractive, "not having spot, or wrinkle, or any such thing, holy and without blemish." As people came to know Christ and love Him, they would desire to join the Society of His followers. The Church laid down terms of admission, the seal of which was Baptism. Down to the time of Constantine a legal time for preparation of Catechumens does not seem to have been fixed. Yet it sometimes extended over three years. The importance of doctrinal instruction was not at first emphasised, but a moral standard was first required and insisted upon, before Baptism. Later doctrinal teaching gained in importance as heresies became rife. The need therefore of the discipline of catechumens can be seen both with regard to morals and doctrine. But if the Church had the power of opening, she had also the power of shutting. It was reasonable that as people were admitted by Baptism, so they might be excluded by another ordinance (judicial censure), and upon humble desire of reconciliation that they should be restored by a third (absolution).[1] Exclusion was no penalty to those who did not wish to enter, but if the Church's privileges and fellowship were valued, then exclusion was to be feared and avoided, and if incurred, re-admission was to be sought. To lay down terms of admission and exclusion was to exercise the legislative power of the Church, and to insist on these laws the disciplinary. This is the power of the keys committed to the Apostles.

For about the first three and a half centuries it is clear the

1 Marshall: Penitential Discipline, p. 7.

Church had no power but that of persuasion and no penalties but the various forms of excommunication and the graded system of penance. This discipline continued to be simple, till a complication entered when in 324 A.D. Christianity became the official religion of the Empire. The conflict between Church and State, the relation of the one to the other, the attempts to delimit the boundaries of the two spheres have been a perpetual source of confusion in the world. The new relationship complicated Church discipline, for excommunication began to be visited with civil penalties. When the Church's censures came to have civil effects, an element of tyranny was introduced. Another effect of this on Church discipline was that a note of worldliness crept into the Church. Offences of moral conduct, which were largely the subject-matter of discipline in the Early Church when it was lifting men out of paganism, are now less noticed. The offences now are those committed against the Church as an institution. The Church protects itself, and the State protects it, against subversive movements, heresy and apostacy, and the sin of usury in Churchmen. In this we may see the Church's sense of the solidarity of humanity developing and her consciousness of herself as the one unifying power. Hence her attitude to anti-social sins. The State recognised this too, and a sin against the Church was a sin against her. And so the Church expected the State's aid in the maintenance of discipline. This conception of the inter-connection of the two has always had support in Scotland. Charlemagne gave effect to church censures, and centuries later in Scotland, at and after the Reformation men were not allowed the privileges of citizenship unless they were in communion with the Church. In short the Church called upon the State to visit with its own discipline persons disciplined by her. This will be found to be a source of weakness to the Church. When she has deprived the offender of her privileges she has exhausted her power of discipline. This is due, however, to the confusion caused by the uncertain relationship of Church and State. The punitive

idea of discipline, which began to be felt somewhere about the fourth century, as contrasted with the remedial and restorative, also in some measure arises from the secular connection.

An important question in connection with this early discipline is: Was the confession of sin open and public? In the primitive Church, Marshall holds, till about 450 A.D., public penance was always done by the offender for the sins which he confessed in secret to the priest. We have the evidence of Origen (c. 240) and S. Cyprian (c. 250) that private confession to a bishop or priest was the usual practice in their time.[1] After the Decian persecution priests penitentiary were common, and there are traces that they gave private penance,[2] but that office was suppressed by Nectarius in 391 A.D., and penance continued to be public. By the 34th Canon of S. Basil, women guilty of adultery, "who confess through piety or howsoever they may be convicted," are not to be exposed in the procedure of penance, "lest by proving their guilt we should afford a ground of death." They are to take their place among the "Bystanders." People could then hardly guess at their offence. It is clear from this that there was no open confession.[3] S. Gregory of Nyssa also makes it clear that sins of some magnitude were confessed to the priest only. Only sins of the most notorious kind seem to have been openly confessed. But there is the clearest evidence that at Rome the confession was private. "At Rome the confession was "certainly private. It would be the first event of the peni- "tential exercises. Not till it had been made could the priest "decide to admit the person as a penitent, or could he deter- "mine the character and duration of the penance. But the "confession was made to the priest alone. The severe con- "demnation expressed by S. Leo for the exceptional local "practice of public confession which had sprung up in "Campania and Samnium has been noticed. He describes "the normal practice as 'the accusation of conscience to the "priests alone in secret confession.'" [4]

1 Watkins: p. 137 and p. 193. 2 *ibid.* p. 477. 3 *ibid.* p. 474. 4 *ibid.* p. 480.

Marshall regards this Constitution of S. Leo as if it were directed against a universal practice of public confession and not a local usage.[1] He regards the public confession as part of the public penance, but Watkins makes it clear that confession, though essential, was always private, except in the case of notorious sins, and that the priest basing his judgment on the confession, fixed the nature and duration of the penance. But it may be that under cover of this Constitution of Leo, sins of a graver character escaped publicity in part. Certainly in the 5th century the old system of public penance was breaking down. One reason was that penance being allowed only once after Baptism, Christians were postponing it till their death-bed. The influx of pagans into the ranks of the baptised had for some time made discipline more difficult. Alternative methods of penance began to be used, e.g., discipline by a self-inflicted penalty and exclusion from communion, thus avoiding publicity. This tendency was hastened by the new relation of Church and State. The State seized upon the public exomologesis with its formal procedure as an institution to be favoured, and it began to assume the character and spirit of a secular judicial court. Every part of this discipline was public, as the Church itself took on the character of a legal institution. Private confession with an avowedly public penance still remained the Church's own disciplinary instrument. Writing of the fifth and sixth centuries Watkins states, "It would appear that the practice of public penance nowhere "died out; but that it ceased to be the practice of the main "stream of offending Christians."[2]

1 Marshall: Penitential Discipline, pp. 108-111. 2 Watkins: p 755.

C.—The Discipline of the Canon Law in the Western Church; its main outlines; its relation to the ancient penitential system; and to private sins and private penance; its nature and purpose.

When we remember the situation that the Church had to face in the first centuries of the Middle Ages, we may be inclined to agree that the rigours of Church Discipline and the flexible sternness of the Canon Law were the only instruments, which in the hands of the Church could have converted Europe from its state of paganism and racial confusion to the civilisation of the later centuries. The historic event of the fifth century was the descent of the northern barbarians upon Rome. They came into the decadence of Rome and the Empire which as yet was hardly begun to be Christianised by the Church. Neither our Lord nor the early Church was ever confronted with such a state of world upheaval, dissoluteness and immorality as this event gave rise to. The Church in loyalty to Christ had to face this situation and overcome or perish. She had to be the educator of this wild confusion of peoples. She had to reduce to order a vast population of many races, some with an effete culture, others with none, and to bring them within the pale of Christian thought and feeling. At the same time she had to keep her own life pure in the midst of this moral anarchy. There will be few who think that this gigantic task could have been done simply by the preaching of the Word. Even to-day in a mission field in Africa, China or India, the Church, though she has certainly to preach the Word, has also to teach, educate, legislate, and maintain a stiff discipline among her converts.

Thus the Church at the beginning of the Middle Ages was forging the great weapon of Christian law. By the time of Charlemagne we find schools scattered through Europe and

following thereon the rise of the Universities, all the teachers being in orders; monasteries were planted; churches were built; parishes and dioceses were being laid out; cathedrals and collegiate churches were being founded, and in all the cathedrals there were Chapters with a law governing the cathedral and secular clergy; and in all the dioceses Bishops' Courts or Courts of Christianity were coming into being, administering the law, absolving or punishing offenders. But before these courts settled in a Cathedral town, they were first peregrinating courts, in which the Bishop or Archdeacon with a staff of clergy skilled in the Canon Law made a visitation of all churches, and examined the clergy and the laity and tried all offenders, drunkards, fornicators, usurers, murderers, robbers, etc., excommunicated them or appointed penance to them.

Let us see briefly how this development took place. About 400 A.D., the disciplinary power of the Bishop issued often in the excommunication of offenders. The judicial procedure was initiated on voluntary confession, or on condemnation by a secular court, or on the complaint of witnesses before the spiritual court of the Bishop.[1] The excommunicated person to obtain reconciliation had to undergo the graded exercise of penance. The courts that exercised this discipline were originally the peregrinating courts described above. Later under the influence of Charlemagne these courts take on a new politico-ecclesiastical character and become a great instrument for the discipline and moral education of the people. The ecclesiastical penances and secular punishments they imposed ran together, fasts, abstinences, excommunication, imprisonment.[2]

These public synodal courts carry on the tradition of the ancient penitential system, at least so far as notorious sins and sinners are concerned, the public confession of sin, the public repentance, and the public reconciliation. All this procedure is public, a variation or development of the old public penance

1 Moeller: Vol. I., p. 486. 2 *ibid* Vol. II., p. 114 *et seq.*

of the Church, under the influence of and supported by the civil power.

These courts had in the nature of the case, slowly from precedent to precedent, by decision after decision, and by accumulating experience, to meet the great variety of cases that they judged, built up great bodies of law dealing with the conscience and conduct of men. But these collections were unsystematised. In detail they differed, sometimes considerably, because different parts of Christendom required different modes of treatment; and individual bishops differed, according to their lax or rigorist outlook, having no central authority to guide them. To meet these difficulties "Officials" were appointed to these Courts of Christianity. The Official was an expert canonist appointed by the Bishop to preside in his court. These courts worked over the material of the earlier courts, interpreted old and made new laws. Still all was unco-ordinated, until the centralising influence of the Papacy began to make itself felt, and collections of these scattered and unsystematised bodies of Canon Law began to be made. These collections found their sources in Scripture, in the Fathers, and in the canons of earlier and later councils, in the decretals of the Popes, and in the bodies of legislative measures formulated by the development of the Consistorial Courts. These courts took into their purview all the grosser sins of the diocese or district, which in the secular court of the local overlord were not punished or only by a fine, e.g., all offences against life, adultery, harlotry, all unnatural crimes, theft, violence, perjury magic and heathen superstition, all offences against ecclesiastical order and ecclesiastico-civil matters.

A vast amount of material therefore accumulated round this administration of Church law. Many collections were made, but the first authoritative one was by the monk Gratian at Bologna about 1150. It was called the *Concordantia Discordantium Canonum*, usually the *Decretum Gratiani*. It was a collection of the sources, but had a running commentary by Gratian himself. It reconciled the apparent inconsistencies

of the canons, and welded the whole, so far as it was possible for one man to do, into a body of law based upon the principles particular and general, sacred and secular, which had grown out of the Christian consciousness of the Church, its sense of a need for discipline, and of being a body with an ethos of its own as distinct from "the world."

Meantime while this great system of public Christian law was developing out of the old public penitential system, and being administered for the most part by the Bishop's Court, there was growing up also a new private penitential system for the discipline of the individual life. This system of private penance had its origin in the Irish Church, was carried to Scotland and the north of England, and by the Irish missionaries was spread through Gaul and the Frankish lands, till in the northern part of Europe it became the chief spiritual disciplinary instrument, not only of the clergy but of the laity. The distinctive features of it were: the confession was private (although this was the case in the old discipline); the penance was private, i.e., it was not part of the Liturgy; the reconciliation was private, and the minister of it was the priest. The Penitentials were the manuals of this system for the priests, containing collections of suitable penances for the various degrees of sins. These penances were mostly fasts on bread and water, the recitation of Psalms, for varying lengths of time, and were mostly in their nature purely spiritual. The Penitentials spread as the system grew in popular esteem.

This new form of discipline had some points in common with the death-bed penance that had become so common in the early Middle Ages, because of the disabilities with which penitents, even after absolution, were followed. Both had confession in private; reconciliation in private; but the dying penitent escaped penance, while under the Celtic mode it was exacted from the penitent to the full.[1] This penance was called a medicament; the priest became the physician of sick souls. By the seventh century it had a footing on the Con-

1 Watkins: p. 758.

tinent, and the old public system was to be found side by side with it. A great impetus was given to it when it was adopted by Theodore, who had become Archbishop of Canterbury in 668 A.D. It was reinforced in Frankish lands by the English missionaries and English scholars. To the practice was added the feature of recurring confession.

In the early ninth century the two systems came into conflict in many places. In 829 the Council of Paris condemned the Penitentials, but the practice continued to spread. There is evidence in questions put to the clergy at episcopal visitations, which are recorded by Regino of Prüm in 906 A.D., that the Celtic type of penance is taken for granted and employed by the clergy. Much discretion is given to the priest. At this time the Penitentials were not used at Rome; indeed the ancient system is still in vogue in Italy. Gradually and surely the new type makes headway. "It is indeed true "that as late as the middle of the twelfth century so great an "authority as Gratian could still refuse to pronounce that "confession to a priest was necessary to a true penitence, "could hold that the sufficiency of confession to God was "supported by at least an equal weight of authority. None "the less, the triumph of the system which the Penitentials "had first popularised was already on the point of being "declared."[1] In the year 1215 the Fourth Lateran Council enjoined confession at least once a year on all the faithful.

The object of this short review is to indicate the ground for believing that this new Celtic system opened a way for the treatment of private sin, which under the old system of public penance was in entire desuetude. Only notorious sinners really came under the scope of the public penance, and as we have seen, this discipline had gradually been taken up by semi-ecclesiastical courts. When in 1215 the Confessional was established, the Courts of Christianity continued to represent the ancient public penance of the Church.

1 A. L. Lilley: Christian Law and Discipline in the Middle Ages, in *The Pilgrim*, April, 1925, p. 301.

Abuses of penance crept in, of course, under both systems of the Confessional and the Courts. Penance at first regarded as a proof of repentance, and a satisfaction to the Church, began to be regarded as satisfaction made to God. And redemptions or commutations of long penance were effected by a severer short period or by a money substitute, or could even be bought off altogether by a generous almsgiving. Alms themselves would take away sin, or the priest would take upon himself the performance of the penance for the alms given. Round the whole subject a mass of literature gathered, great collections of casuistical writings, canons and interpretations and ecclesiastico-legal material. Gratian's work in this respect was followed up by S. Raymond of Pennafort, whose collection, published in 1234, served as a text book for instruction in Canon Law in the Universities. But as a matter of fact it was Gratian's Decretum of 1150 and the Canons of the Fourth Lateran Council of 1215 which really determined the future course of Church Discipline and applied it to all Western Christendom, and to Scotland amongst other nations, though not so directly and absolutely, as we shall see, as to other peoples and churches.

We have yet to answer one question—from this rapid and inadequate sketch of the development of Church Discipline as seen in the growth of the Canon Law and the rise of the Confessional, can we discern the purpose behind it all? What was the guiding motive behind this great growth of Christian law, which regulated the life of Europe for centuries before the Reformation? Did that purpose persist or in any way deteriorate? Its purpose is most clearly seen in the development of the Apostolic and sub-Apostolic Church and in the Canons of the Councils which were held in the fourth century. We assume that the concern of discipline is the life and conduct of Christians. The Church is ethical in its purpose out of devotion to its founder, Jesus Christ. It is concerned for the life of its members, how they live, what are their relations to one another and to the world, how they shall

bear themselves in certain situations and emergencies ; if they do wrong, how they shall be corrected and reclaimed, and if they persist in evil, how the Church shall be kept pure.

In the New Testament there are examples of how the Apostles met these problems ; in the Fathers there is quite a body of traditional procedure as to how they did and advised in the cases of difficulty that presented themselves to them. And then there came the Councils which gave decisions along the traditional lines, but with emphasis upon the particular points that vexed their own generation. By examination a certain principle will be found to be behind all decrees, laws and decisions, and that principle is an attempt to express the mind of the Church upon the matters at issue. Any particular canon may in a longer or shorter time not be capable of application, but in the body of those which deal with the same kind of problem, the common mind of the Church or the Christian attitude is discernible.

As the Church extended and penetrated the Eastern nations, North African peoples and the lands of the west and north, this process still went on. Organisation followed. Government and Orders are Discipline in the widest sense, and good government makes in the end for the good of every Church member. But leaving aside this wider question, the national churches or the individual bishops were still confronted by questions such as vexed the early church, though differing in many ways according to the locality or temperament of the peoples and for many other reasons. They would have the guidance of such earlier decisions as they had access to ; with them and the Scriptures and the leading of the Holy Spirit, they would arrive at a decision expressive of the mind of their Church on the matter. A decision in a time of persecution might somewhat differ from one on a somewhat similar question in days when the Church was tolerated by the State ; a canon made in Africa might differ in some respects from one made in Asia Minor ; but both alike would be seeking the common mind of the Christian Church.

It appears that this is the necessity behind the great growth of the Canon Law, and that Gratian's and subsequent works were attempts to co-ordinate the whole canons of the Church, and to give thereby more adequate expression to the common mind of the Universal Church on the great problems of Christian life and conduct. The need for such expression continues, but there is no undivided Church to give guidance to believers in the perplexities of the modern world.

Collins[1] accepts this interpretation of the growth of the Canon Law so far as the Early Church (to the time of the early Councils) is responsible for it, but with regard to the work of Gratian he makes the assertion that all the rest of his matter is "simply hopelessly spurious." It is admitted there are false decretals and a good deal of inconsistent and worthless matter, but to assert that the whole body of the Canon Law is a fabrication is going too far. He argues that to make this law effective and its administration uniform the Pope is essential to the system, as in a sense the source and protector of the law. He holds that a non-papal Canon Law is an absurdity. The true purpose of his argument, however, in throwing overboard the later Canon Law and the Pope with it is to prove that the Church of England at the Reformation went back to the earlier sources of this law, which, in its judgment, is a truer expression of the mind of the Catholic Church. "For us, then, the authoritative canon law is not "something in the clouds, or in the Roman Church, or "in certain medieval lawbooks, or anywhere else; it is that "which is enforced, observed and kept by those who best "represent the mind of our own Church. If it be said that "this is vague, it need only be answered that the same thing "is true of the canon law of any other body, and not least so "in that body whose canon law looks most precise on paper. "And further, it will become less vague in proportion as we "realise more of the spirit of discipline, and learn to understand "better the canonical principles of the Church."[2] This is

1 Collins: The Nature and Force of the Canon Law. 2 *ibid.*, p. 42.

surely a very sectional and national view of the law and discipline of the Church. Whether for the overthrow of the Papacy it is necessary to repudiate the greater part of the Canon Law is a moot point. Perhaps the two stand or fall together, but the purpose of the Canon Law and of Church Discipline, in the whole Church or any section of it, from these considerations we have set forth, is clear: it is an attempt to get an expression of the common mind of the Church upon the vital problems of human life in this world, and to create an instrument with which to help to fashion men's lives after the Christian pattern.

D.—Definition of Subject; proceeding from the foregoing Introduction.

The Introduction has in a manner defined the subject. The word "discipline" according to ecclesiastical usage has a variety of meanings. In the Church of Scotland we have our *First* and *Second Books of Discipline*; in that connection the word means policy or polity and covers such questions as Church Government, admission of Ministers, duties of Superintendents, Elders, and Deacons, policy proper, i.e., Christian education, preaching, administration of the Sacraments, examination of households, marriage, etc. The *Discipline of the Reformed Churches of France* (1559) has the same scope of contents. In the inclusion of Christian instruction, preaching, sacraments, etc., under the head of "discipline," Romanist and Protestant agree. Even the Society of Friends have their *Christian Discipline of the Religious Society of Friends*, which covers in its three parts, (1) Christian Life, Faith, and Thought, (2) Christian Practice, (3) Church Government.

When discipline is thus thought of as educative or for the creation and nourishment of the spiritual and moral life, the Roman Church sets forth among her instruments for that purpose such ordinances as the seven Sacraments, the Con-

fessional, Ritual and Ceremony and Christian Art, the Calendar, Monachism, the weekly observance of the Mass, the Catechism, the Mission, the Retreat, Church Censures, the Roll of the Canonised, and the use of Images.[1] The Protestant too includes under this educative and edifying connotation of discipline, worship including the discipline of prayer, the reading and preaching of the Word (often a real criticism of life), Family Worship, Fasting, the Sacraments, Ministerial Visitation, etc. Protestant and Roman Catholic have different conceptions of these ordinances, but both reckon them invaluable instruments for the upbuilding and disciplining of Church members.

The *First* and *Second Books of Discipline* of the Church of Scotland include heads dealing with the government of the Church, and it is for good discipline that there be officers, and it may even be argued that the nature of these offices is in some measure determined by what officers are best suited to preserve discipline in the Church. But to treat this matter of Church Government as a part of Church Discipline would lead us into many vexed questions, such as Episcopacy versus Presbytery, whereas it is to be noted that there has been Church discipline under any and every form of Church Government, whether Roman or Reformed, Episcopal or Presbyterian. In the *First Book of Discipline* there is a head entitled "Ecclesiastical Discipline," and it treats of the Church's way of dealing with faults in her members. The authority, as we saw in the New Testament, given to the Church in this matter, is legislative and disciplinary; inasmuch as expression can be given to the common mind of the Church upon matters of doctrine and conduct, individual members have knowledge of the same, and the discipline is therefore preventive in the first instance; then remedial and restorative to win them back from error, or it is protective to guard the purity of the Church. The Church is in duty bound to guard its doctrine, its worship (the common expression of its

1 McCabe: Church Discipline.

relationship to God) and the morals of its people. Like any well-ordered Society the Church must have the power of determining the terms of admission into her membership, of continuance therein, of suspension or exclusion therefrom of those who would subvert her constitution by false teaching or evil life; also the terms of restoration of such as have satisfactorily submitted to her discipline. This right of the Church is according to reason, but the right was given her directly by Christ, Who gave her authority in these matters. A modern definition of the essential problem of Church Discipline is "the various methods by which the corporate action of the "Society has tried to secure that the practice of its members "shall conform sufficiently for working purposes to the Divine "will, as understood by it from time to time."[1]

Inasmuch as the *Second Book of Discipline* declares that "the haill policie of the Kirk consisteth in three things, namely, "in doctrine, discipline, and distribution, and according to the "pairtes of this division arisis a threefald sort of office-beirars "in the Kirk, to wit, of ministers or preachers, eldars or "governours, and deacons or distributors," and thereby implies that the work of elders is the administration of discipline, it may be necessary to touch upon this aspect of what otherwise might be held to be the Government rather than the Discipline of the Church.

1 J. Vernon Bartlet: Discipline in the Ancient Church in the *Pilgrim*, April, 1925.

CHAPTER ONE.

Discipline in the Celtic Church.

IN a history of Church Discipline in Scotland we ought properly to begin with the Celtic Church, but there are so few sources open to us, and so few definite allusions to its legislative or disciplinary activity, that reference to that period must needs be short. Attempt has been made to differentiate three Celtic ecclesiastical establishments in Scotland. The earliest is the Church of Ninian at Candida Casa with its mission to the Southern Picts, growing into the Pictish Church, leaving traces of considerable influence on the north-east coast of Scotland.[1] The second is the British Church of Strathclyde, founded by S. Kentigern, and the third the Church of S. Columba, with its centre in Iona. However independent of Rome the Church of Ninian may have been, its founder himself "had been regularly trained at Rome in the faith and the "mysteries of truth."[2] He came under the influence of S. Martin of Tours, and his life work (400-430 A.D.) may have borne something of the character of this great saint of the Church in Gaul.

It now seems possible to trace the influence of Ninian's mission in the north-east as distinct from the later Columban mission, but the broad fact remains that the earliest Christianity in Scotland was that of the Celtic type common to Ireland and what is now known as Scotland. Ninian may have been trained in Rome, but we know he was intimately associated with many Irish Churchmen of his day. After his death, under the name Nennio, as stated in the Lives of Eugenius of Ardstrain and Finnian of Moville, the teacher of

1 A. B. Scott: The Pictish Nation and its Church; Simpson: The Historical S. Columba. 2 Bede: Hist. Eccles. in A. O. Allan's Scots Annals.

Columba, he became the inspiring example for these saints who were trained in his monastery at Candida Casa.[1]

This fact also is known, that when in the fifth century the great patriarchates emerged as authorities superior to metropolitans or provincial synods, a right of appeal to Rome was granted to Western Christendom, but Britain remained outside that jurisdiction, "the Celtic Churches of the British Isles, after those islands were abandoned by the Empire (420 A.D.) pursuing a course of their own."[2]

So we may take it that the Celtic Church of Scotland developed largely beyond the centralising influence of Rome, and there is evidence for this in the distinctive character of the work which the Celtic missionaries did in Italy, Switzerland, and Gaul in the sixth century. In the Columban Church we find definite traces of a discipline. Iona in the Saint's time was something in the nature of an island court of justice, where amid the violence of the time people found justice and judgment. Columba had a method of entrusting those who had sinned to the spiritual care of individual monks of his community, who were termed soul-friends and whose duty it was to restore the souls of these penitents. This was a practice of the early Church, and a practice that developed easily out of the relationships of the monastic life. It foreshadows the later spiritual director. Columba sent others to lonely islands to do penance, after which they would obtain absolution. On the island of Tiree Columba founded a monastery which was in the nature of a penitential establishment and his colleague Baithene was sent there in charge of it, to act as the soul-friend to penitents.[3]

Though such accounts of the training given by Columba have come down to us, we have still better reason to believe that there must have been in the Columban Church something approaching a real discipline. And we believe this because

1 Reeves: Culdees. 2 Article, Ecclesiastical Jurisdiction, in Encyclopædia Britannica. 3 Life of S. Columba by Adamnan, ed. Reeves.—Note by Editor, pp. 303-317.

we know that Columba received his final education in the great monastery or school of Clonard, founded about 532 by Finnian, who was its Abbot and principal teacher when Columba was there. Columba left Clonard in priest's orders, although it is on record that Finnian desired Columba to become a Bishop and discharge episcopal functions in the monastery. This fact indicates that Finnian must have considered Columba well fitted for the pastoral and administrative duties that fall to a Bishop, and therefore no doubt familiar with the penitential system, which Finnian had instituted somewhere about 530, when he founded his college and monastery.[1]

This discipline is very noteworthy. It is perhaps not the very earliest of its kind, as there are traces in the *Praefatio de Penitentia* of Gildas that this type of discipline may have been in operation in the British Church in Wales during the first half of the sixth century.[2] The important fact for us is that the *Penitentiale Vinniai* has been preserved. In it Finnian appoints varying grades of penance for sins ranging from those of thought and desire to evil deeds of varying magnitude. The real interest, however, lies in the very distinct differences between his system and that practised on the Continent. These differences are :—(1) Penance is not done in public ; there is no exomologesis ; upon confession penance is set, which seems to have been done by the penitent in private. It is no part of the public Liturgy of the Church. (2) There is no public reconciliation, but after the penance is done, the penitent may proceed to Communion. Inasmuch as the penance must be done before the reconciliation is effected, it differs from the later practice of the Sacrament of Penance, where absolution is given and the penance given to be worked out afterwards. (3) The Minister of Reconciliation is not particularly specified. He may have been the Abbot, who was usually a priest, or any priest appointed by him. But the usual officer in Western Christendom for this solemn duty was the Bishop. But as

1 Watkins : A History of Penance, pp. 589, 610, 611. 2 *ibid*, p. 603.

there is no public reconciliation, there is no mention either of bishop or priest, though in later Celtic practice this was the priest's duty.

Now S. Columba must have known this system of discipline at Clonard, and he himself founded two monasteries of a like type, the one at Derry in 546 and the other at Durrow in 553. It is therefore most reasonable to suppose that at these two monasteries or schools and at others founded on the model of Clonard this disciplinary system was practised. Consequently when Columba founded his monastery at Iona in 563 and during the period of his work there, it is not unlikely that he would put the same system of penance in operation with such modifications as the nature of the mission made necessary. Indeed, there are traces, as we have seen, of a *lex poenitentiae* in the Columban Church, which owes its origin no doubt to Clonard and the Iro-Celtic Church generally.

A code that appears to owe its origin to Iona is the *Penitentiale Cummeani*, ascribed to Cummian, who was Abbot of Iona, 659-669, in which the working laws of Columba may well have been incorporated. It was just about this time that in England the two forms of Christianity, the Celtic and the Roman, were contending as to which would dominate the national Church. Theodorus, Archbishop of Canterbury (668-690) gave all his influence to promote the Roman organisation, but strangely enough as regards the discipline of Penance he favoured the Celtic system, which had penetrated into England through the influence of the Scotic mission at Lindisfarne and the Welsh Church.

Theodore gave his authority to the putting forth of a Penitential on the Celtic lines, which was in every respect more complete than any of its Celtic predecessors, with directions for both priests and people in the use of it.[1] Marshall suggests that this method was adopted as the barbarity of Theodore's people would admit no return to the rigours of the ancient Church. It is interesting to know that

1 Marshall: Penitential Discipline of Primitive Church (1714) p. 117.

in this work Theodore refers to a *libellus Scottorum*,[1] which may be one of the Celtic penitentials like Finnian's or even Cummian's Penitential.

Marshall, writing in 1714, says Theodore is charged by Morinus "with having been the first who brought in the "innovation of secret penance for secret offences." And now Harnack holds that it was from the Iro-Scottish Church, through Theodore, that the practice of private penance in the presence of a priest reached Rome.[2] McEwen,[3] commenting on this fact, says this discipline originated not in priestcraft, but in the exigencies of evangelistic missions, which agrees with Marshall's opinion. It has been proved that at this time a Roman Penitential did not exist.[4]

A. L. Lilley[5] writes:—"The Penitentials . . . were "unauthorised manuals of spiritual direction which had grown "up spontaneously to meet the needs of the life of devotion in "the cloister. It was in the Irish monasteries that they made "their first appearance, and from them their influence rapidly "spread into all the lands evangelised by the Irish monks. "But further, in this process of evangelisation, or, in the case "of lands already evangelised, of religious revival, the discip- "linary system of the Penitentials was transferred from the "cloister to the general body of Christians living in the world. "Thus throughout the northern lands, in England, in Burgundy, "and the other Frankish lands of the ancient Gaul, and in "Germany, the Christian life was formed by a discipline which, "south of the Alps, was as yet unknown, save in the region "immediately influenced by the Irish monastery of Bobbio. "Church authority as yet knew no other method of religious "discipline than the ancient method of public penance, which "meant that all those whose lives were free from the brand of

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1 Haddan and Stubbs, III., 176, 183. 2 History of Dogma, V., p. 325. 3 Hist. of the Church in Scotland. 4. Encyclo. Britt. quotes M. Paul Fournier's Etude sur les Penitentials (1901). 5 Christian Law and Discipline in the Middle Ages—The Pilgrim, April, 1925.

"notorious and public sin escaped its searching and healing "power."

This new system was unauthorised, and indeed, formally condemned by the Councils under Charlemagne at the beginning of the ninth century, and more rigorously by the supreme authority of Rome. But the old system of public penance was doomed. We have traced in the Introduction the attempted distinction between private sins and public sins, and its end was hastened by the system that the Penitentials introduced. In spite of the authority of Gratian against it, this system went on evolving till the Confessional (involving the practice of recurring confession, now universal and obligatory) was enjoined upon all the faithful by the Fourth Lateran Council of 1215.

This seems to be a digression from the Celtic Church and the Church of Columba, but Marshall and Harnack (with nearly two centuries of scholarship between them) have been justified in their conclusions by the recent researches of Watkins (*A History of Penance*, 1920). He has conclusively shown that the development of the Penitential begun about Columba's time, practised most likely by him, and carried on by his successor Cummian in Iona and other Celtic monks and missionaries in Ireland, Scotland, England, carried to Switzerland and Gaul, then taken up by Theodore and greatly developed by him, spread also by the English missionaries and scholars like Alcuin, at length resulted in the Sacrament of Penance, enjoined by Rome in 1215.

Marshall and also McEwen are careful to say that the practice did not have its origin in priestcraft, but arose to meet a human need, the discipline of the individual soul. If so, that quite agrees with the commonly accepted belief that there was no connection organic or personal, between the Church of Columba and the Church of Rome. Neither Adamnan nor Bede, both adherents of Rome, indicates any influence from Rome on Columba or the Scotic mission of Aidan in Lindisfarne. Indeed it looks all the other way, as

if Rome fumbling with the question of private and public sin and public penance got her rationale of the Sacrament of Penance from the Iro-Scotic Church.

In the Celtic Church it probably grew up as the natural religious intercourse of a man with his father-in-God, without any specially sacramental character, and so continued as long as the Celtic Church in Scotland continued her life independent of Rome. But on the Continent it coincided with the decay of public penance and the passing of the earlier Penitentiary, and so gradually took the important place it afterwards filled in the Sacraments of the Roman Church.

Besides this contribution of the Penitentials, the Celtic Church also contributed to the growth of the Canon Law the Irish collections of canons. They include documents beginning with the pretended Synods held under S. Patrick, but now usually all ascribed to the beginning of the eighth century. Several texts from them passed to the Continent, and they are remarkable in this that they contain citations from Scripture and the Fathers. Thus if these canons were used to any extent in Scotland, and there is every chance they were, the appeal to Scripture was no new thing at the time of the Reformation.

Another form of Discipline of which there is evidence of use in the Celtic Church hardly comes under our definition, for it is of the educative, edifying type. This is the office of the *ferleiginn*, teacher or lecturer, a sort of public instructor attached to the "bangors" or colleges of the old Pictish Church. It is an office which after the transition seems to have lingered on in the Roman Church, e.g., at Stirling, Perth, and Roxburgh, and may have had its fruit in the foundations of the Universities in the fifteenth century, and after the Reformation in the ideal of parish schools, and generally in the teaching office of the Church.

It is no part of our duty to relate the steps by which the Celtic Church of Scotland under Queen Margaret and her sons in time emerged as Ecclesia Scoticana, a church largely after the model of the Latin Church of the West.

CHAPTER TWO.

The Discipline of the Roman Church in Scotland from its establishment till 1560.

THE date of the marriage of Malcolm Canmore to the Saxon princess, Margaret, in 1070 is the virtual date of the establishment of Roman Christianity in Scotland. As far back as 685 A.D. at the battle of Nechtansmere when the forces of Pictland overthrew the Northumbrian aggression, a check had been given to the northward advance of Roman ecclesiasticism, which lasted for two or three centuries. But between that date and the coming of Queen Margaret to the throne, the Celtic Church did not develop its organisation much after the beginning of the eighth century.[1]

The last Abbot of Iona died in 854, and the Columban Church seems then to have parted with the last shreds of its distinctive character. Dunkeld first became the seat of Church authority and then St. Andrews, and the head of the Church was a bishop, first of Fortrenn and then of Alban, whose charge seems to have been the whole kingdom till somewhere about the beginning of the twelfth century.

The Celtic Church survived in small communities of ecclesiastics, the Culdees, scattered mostly in the east, north-east and north of Scotland, the precarious existence of some of which can be traced down to the thirteenth and fourteenth centuries. But the Church was de-Celticised by Margaret as the nation was gradually Anglicised. The Church became Romanised.

It is unnecessary for us in this review to consider the steps by which this change was effected. The lesson of history is that an ideal, however high and inspiring in itself,

1 A. B. Scott: The Pictish Nation and its Church, ch. xiv.

cannot survive without its embodiment in a system of teaching or without the organisation of its supporters. And the Celtic Church, lacking in organisation, gradually melted away before, or was absorbed in, the superior organisation of Roman Christianity. The influence of Margaret was all used for the furtherance of the Roman ideas of Church government, discipline and practice. The increasing power of Anglo-Norman families in Scotland also broke down the last resistance of the Celtic Church, and by the end of David's reign in 1153, there are nine bishops and nearly all the great mediaeval sees in Scotland are securely founded, and the parochial system has been introduced.

We find that in 1179 the Scottish Church was represented by two bishops at the Third Lateran Council, a recognition by Rome of the status of nation and church, and at the Fourth Lateran Council (1215)—whose chief work was of a disciplinary character—three bishops were present from Scotland.

National policy was being shaped and centralised in the King's Court, but alongside it an ecclesiastical policy was equally rapidly being developed. Discipline must follow on organisation, to preserve the body from decay and to help its functioning. Monasteries and great religious houses sprang up; they were under their own particular rule but also governed by the general Canon Law. Cathedral Chapters increased and the discipline of the Canons and subordinate clergy gave rise to special statutes and rules for Cathedral government. Later, Collegiate Churches were founded and likewise necessitated special rules. The diocesan and parochial system could not work of itself without laws for its ordering and regulation. These considerations all demand organisation, law and its due execution. This great organisation with its centralised power in Rome came into being in Scotland at the end of the eleventh century and lasted till 1560. From the great mass of detail which naturally accumulated in the long history of five centuries, can we pick out the main lines of the Church's discipline, by which

it sought the promotion of Christian virtues in its own society and in its individual members?

Somehow the Roman Church secured a hold of the Scottish people; it is difficult to say upon what terms they were admitted to membership; but surely they must have been very easy; at any rate the training of Catechumens is one of the disciplinary methods open to any church, which in the early Church was carried to great lengths, but concerning which we have found no record in the Scottish Church of this time. There is evidence that the normal baptism was infant baptism, but even so, no method of bringing home its responsibilities to parents or sponsors has been preserved, at any rate with regard to the special requirements of Scotland. In the eyes of the Cele De, who co-existed with the Roman Church in Scotland at this time, Baptism alone constituted a man or a woman a member of the body of the Christian Church.[1] When Queen Margaret upbraided the members of the Celtic Church for the unwillingness with which they came to the Sacrament of the Lord's Supper, they pled the high standard of moral life which their Church required from those who made this profession. Baptism admitted them to formal membership, and it may have been that the Roman Church was content with a similiar standard; and at any rate it would have accepted the Celtic baptism. It is interesting to note that the modern Church of Scotland as recently as by Act of Assembly, 1917, VI., declared that "a child has a right to Baptism, whose "parents, one or both, having been themselves baptised, pro- "fess the Christian religion and desire baptism for the child," which virtually implies that Baptism makes a man or woman a member of the Church—a tradition which has come down from the Celtic Church through the Roman period, and is declared afresh to-day against the popular notion that only a Communicant is a member.

However it came about, whether terms of admission were easy or a laxity had been carried down from decadent Celtic

1 A. B. Scott: The Pictish Nation and its Church, p. 536.

Christianity, we find that in 1159, a Bull of Pope Alexander III. recognises that the Scottish Church stands in need of reformation.[1] And practically all the records that we have from then till 1559-60 bear witness to the same need. We come now to the time when the most valuable records of this period of our Scottish Church History begin, and to the origin of the "Statuta Ecclesiæ Scoticanæ." Canterbury and York had long struggled to assert supremacy over the Church in Scotland, a claim always stoutly resisted. Scotland claimed a Metropolitan in the reign of David I., and also under Malcolm IV., but the Papacy did not grant the claim. But at last Clement III. in 1188 declared the Scottish Church independent of the English Church, "and a daughter of "Rome by special grace, and immediately subject to her." She was yet, however, without a Metropolitan and before she could hold an ecclesiastical council the presence of a legate from Rome was necessary. These legates were popular with neither King nor people, so a tremendous boon was given Scotland by the action of Honorius III., who by a Bull in 1225 overcame the disqualification the Scottish Church laboured under through having no Metropolitan, by giving authority to the Bishops of Scotland to hold a Provincial Council, and to elect one of their number as president or conservator of their privileges.

The terms of the Bull itself seems to imply that its main purpose was the enforcing upon or applying to Scotland the Statutes and Canons of the Fourth Lateran Council of 1215, and to punish all irregularities in connection therewith. This Council passed many disciplinary measures much required in all western Christendom for the correction of abuses and the reformation of morals and the enforcement of decisions of the General Councils. Whether the Bull was for one occasion only or not has never been determined, but in virtue of its terms the clergy held and continued to hold Provincial Councils from time to time till 1472 when the Pope made

1 Hadden and Stubbs, II., i, 233.

St. Andrews a Metropolitan see.

Somewhere between 1237 and 1286 the Provincial Councils framed or adopted 50 or 60 Canons, which sufficed for the government of the Church of Scotland almost to the Reformation.[1] Dr. Patrick says that if we count the diocesan decrees of St. Andrews and Aberdeen that have been preserved, perhaps as local promulgations of provincial statutes, the total to represent Scottish or local Canon law till the year 1549 is 167 canons. The rising storm of the Reformation then stimulated the Council into activity and the total of canons or statutes was brought up to the neighbourhood of 300. These form the great source of our knowledge of the Roman discipline in Scotland in the centuries before the Reformation.

How is this local collection of canons related to the general Canon Law of Western Christendom? The Canon Law in Scotland before the sixteenth century was generally that which was common to all Europe. "Though one of the "*fontes juris Scotiae*, Canon Law never was of itself authori- "tative in Scotland. In the canons of her national provincial "Councils (at whose yearly meetings representatives attended "on behalf of the King) that country possessed *a canon law* "*of her own*, which was recognised by the parliaments and the "popes, and enforced in the Courts of law. Much of it, no "doubt, was borrowed from the Corpus Juris Canonici and the "English provincial Canons. But the portions so adopted "*derived their authority from the Scottish Church.* The "General Canon Law, unless where it has been acknowledged "by Act of Parliament, or a decision of the Courts, or "sanctioned by the Canons of a provincial Council, is only "received in Scotland according to equity and expediency."[2] Thus in the 296 Statutes of the Scottish Church, first collected by Dr. Joseph Robertson in their original Latin and afterwards translated by Dr. David Patrick, we have an authoritative source of knowledge of the religious condition of

1 Robertson: Statuta Ecclesiae Scoticanae. 2 Canon Law, in Encyclopaedia Brittanica, by Professor Phillimore.

Scotland in the time covered by them, and of the attempts at discipline and reformation which the Roman Church made.

The Council was really a clerical assembly. All Bishops, Abbots and Priors were required to attend, later, deans and archdeacons and sub-priors, an uncertain number of untitled clergy but no attempt at a representation of parochial clergy. Two doctors of civil law as commissioners for the King were the only laity, although it was quite possible that some of the abbots and priors were not in orders. Anyhow it was a clerical Assembly. The precise relation of this spiritual Court to the King's Court was never defined. The relations seem to alter from time to time.

As to the powers of the Council, they were legislative and administrative or disciplinary. While the Council may never have initiated legislation new to the Church, yet its power was legislative in that it applied the principles of the Canon Law of the Roman Church to the special requirements of Scotland. Also it administered this law, enforcing it or visiting violators of the law with censure, penance, or punishment. The Council goes on through the centuries registering the sins of the Church, but there is little evidence of the methods used to effect its purpose or of what success it met with.[1]

But the Council had at least a variety of disciplinary instruments to its hand:—

I. The Sacrament of Penance.
II. Archdeacons' Visitations.
III. Bishops' Courts.

The second and third may not always be very distinct, but the Bishops' Courts or Courts of Christianity, as they were called, were the courts in which the Roman Canon Law was enforced.

1 The relations of the Reformed Church of Scotland to the Provincial Council are interestingly brought out in two pamphlets by the late Rev. Professor James Cooper. (1) The Church of Scotland: her attitude towards General Councils, the Earlier Decretals and the Canon Law. (2) The General Provincial Councils of the Scottish Church considered as Precursors of her General Assemblies.

I. The Confessional and the Sacrament of Penance.

When treating of Church Discipline in the Celtic Church we have already in some measure studied the evolution of the Confessional from the practice advocated in the Early Church of privately confessing sins to a priest or minister or "the Penitentiary," who appointed public penance and upon its performance gave the absolution. Public penance later came to be regarded as a hardship and a hindrance to frank confession, and private penance for privately confessed sin became not uncommon. But later the conventual life revealed the sins latent in the very motions of the soul of man, and in the Celtic Church the Penitential system and the Penitential Books developed an agency for helping Christians to fight the battles that took place in their own souls.

These two experimental tendencies, as they might be called, in the science of Confession merging together gave rise to an unauthorised use of the Confessional, even against the advice of the great Canonist Gratian. The unauthorised use continued until the practice was sanctioned by the Fourth Lateran Council in 1215, and thus the Sacrament of Penance was enjoined upon all the faithful, confession to a priest at least once a year becoming obligatory.

Its application to the Church in Scotland was probably registered by the Council of 1225, but when we remember that the Penitentials, the first manuals of confession, had their rise in the Celtic (Irish) Church, it is not unlikely that this spontaneous development of the Confessional had advanced in Scotland under the Celtic regime till now it met with itself in the guise of an authorised Sacrament of the Roman Church. At any rate the Confessional is enjoined by the Statutes of the thirteenth century, and its character will be seen by a study of Nos. 16, 54, 58, 90, 101, 102, 103 (these last three are taken from the Decretum of Gratian, before penance had been elevated to a Sacrament), and 108, 114, 119, 138, and 148.[1]

1 Patrick: The Statutes of the Scottish Church.

No. 58, "Of the Sacrament of Penance" is indeed a short manual for the priest in the duties of the Confessional. The directions are explicit as to how he is gently to draw forth confession and to open the heart of the penitent, making enquiry of common sins, but being careful not to suggest such evil as the heart of the penitent has not conceived. All shall confess once a year at least to their own priest, or after an offence. If the priest be in need himself of help in any case, "let him consult the Bishop or discreet men, fortified by "whose advice he may more confidently loose or bind."

The other statutes give further information; bishops are to appoint confessors for clergy in their deaneries; no one by the Canon Law can be judge (in his own cause) so far as to be allowed to choose a confessor without the permission of his senior; the sin should be forsaken before absolution can be given; selling penances for money or any simoniacal practice is prohibited; sins of priests with penitents (who are women) are specially to be severely treated.

The Catechism of Archbishop Hamilton,[1] issued by the Council of 1552, explains the Sacrament; its three elements are, contrition, confession, purpose of satisfaction. The priest absolves on a worthy confession, and the penance is set, not as something "to deserve remission of sin by pain or punishment, "or to make to God a recompense; for not in power of man "to do this, for only Christ can do this. It is to cut away the "occasions of sin and to give no entrance to their suggestions. "For after our actual sin is forgiven by faith and the Sacrament "of Penance, there remains in us certain dregs of sin, that is to "say, stiff inclinations and motions to the same sins as we did "before. Therefore that we be nought overcome by consenting "to same, we must study to please God with a meek and lowly "heart. 'Do ye the worthy fruits of penance, which are "praying, alms, fasting, and all other means that may help to "cut away the occasions of sin, as the Minister shall think good "according to the word of God.'"[2]

1 The Catechism of Archbishop Hamilton, ed. by T. Graves Law (1884). 2 *ibid.*, p. 223.

There were no confessional boxes in Scotland or England in the mediaeval period, and the priest was to confess his penitents in the Church where they might be seen, yet not overheard.

This instrument for the disciplining of the individual life had been at work for at least 400 years before the Reformation. What it achieved none can say. By reason of its very nature, its secrecy, all records of its effect upon its users are obliterated, and judgment upon its value is always difficult, and certainly cannot be passed very impartially by those who have had no experience of its spiritual effects.

II. Archdeacons' Visitations.

Statute 112 (being one of the Constitutions of David de Bernham, Bishop of St. Andrews, 1242) orders that "every "Church in our diocese be visited by our archdeacons or their "deans every year, and all deficiencies in churches and "churchyards, books and ornaments, be brought under our "notice in writing."

But there is evidence to show that the supervision of the parochial clergy was largely in the hands of the Archdeacon. He was assisted by "deans of Christianity." A dean was one of the parochial clergy of a group of adjoining parishes within a diocese chosen for this purpose.[1] The relation of dean to archdeacon is not quite clear, whether he visited independently of the archdeacon or as his deputy. But the archdeacon had large powers. He visited the parishes and churches in the archdeaconry, and reported to the Bishop what were the conditions obtaining in each. He even had a court for the trial of spiritual offences and an "Official" like the Bishop's. In the Statutes there is no record preserved of the queries he made in each parish but

1 The area of jurisdiction of a "dean of Christianity," it would seem, bears some relation to the area now covered by a Presbytery.

Dowden[1] gives a few specimen questions out of the 50 issued for the archdeaconries of Lincoln in 1230. And we know the Canon Law of the two countries was at this time very similar. "Whether rectors, vicars, or priests are egregiously ignorant, "any of the aforesaid are incontinent? Whether are any "drunkards or frequent taverns? Whether any extort money "for hearing Confessions or for other Sacraments? Whether "any are non-resident? Whether the adulteries or public "crimes of laymen have been duly corrected by the arch-"deacons?"

This kind of examination has come down through the older Privy Censures to our day in the Schedules of Presbyterial Superintendence, although the questions tend to be less personal and more polite, if less useful accordingly. The Archdeacon had also by the Canon Law to examine candidates for Holy Orders and clerks presented to benefices (Decretal of Gregory IX., lib. i., tit. 23) a duty which in the presbyterian Church of Scotland to-day falls to the Presbytery. Here then there seems at least to be the machinery for the supervision of the secular clergy in their personal lives and in their parochial work, and some hint that the Archdeacon also dealt with the sins of the laity in his district. There was right of appeal from the Archdeacon or his official to the Bishop or his Court.

III. Bishops' Courts or Courts of Christianity.

We have already traced in the Introduction, while outlining the main development of the Canon Law, the rise and growth of the Courts of Christianity (*vide* Introduction). The early public penance of the Church became split into two lines which thereafter ran parallel but distinct, the one, at first eschewing the necessity of public penance, tending to private penance for sins privately confessed, the other

1 Mediaeval Church, p. 219.

preserving the public aspect at first by trial in diocesan Synods, i.e., judgment being given by Bishop and clergy, and later in Courts of Christianity or Bishops' Courts.

Let us pass from a consideration of these in the general to these in the particular, viz., as we find them in Scotland.

With the Romanisation of the Church in Scotland in the reigns of Margaret and her sons, came diocesan bishops, and with them Bishops' Courts and the Canon Law. Margaret and David found their inspiration and model in England. William the Conquerer, when he came to rule in England, decreed that synods should meet frequently, and that all spiritual matters should be tried by the bishop in his own court according to the Canon Law. Contumacious and therefore excommunicated persons would then be dealt with by the King's Court, a practice later carried on in reformed Scotland. In 1125, in the reign of David, there was a legatine Council held at Roxburgh; and in his reign also evidence of the establishment of Bishops' Courts is not wanting. But under David, or soon after his time, Scotland was divided into Sheriffdoms, where the law was administered in the King's name. The Bishops' Courts had their origin in Scotland about the same time, with a limited jurisdiction, the State ever resisting any real Papal control, and the Church on the other hand unwilling to accept and register Parliament's decisions in spiritual matters, as witness the later conflict between James I. and the Church Courts. Anyhow, soon after their establishment the Bishops' Courts took over a large part of the administration of justice in the land. They found little or no Christian law in Scotland, although Scotland was not without her primitive codes of law. Such codes had been in existence among Celts and Teutons long before Christianity spread among them. In North Britain there was a body of customary law.[1] The Church has often been a people's first law-giver, except for some of the primitive, instinctive inhibitions of

1 McKinnon: Constitutional History of Scotland to the Reformation, pp. 13-78.

society or such primitive codes. Thus when the first Scottish Provincial Council met in 1225 by the authority of the Pope, the Scottish bishops had, at any rate, no Christian traditions to fall back on peculiar to Scotland, except perhaps at second-hand the Penitentials. These had originated in the Celtic Church and passed to the monasteries of the Irish missionaries on the Continent, so becoming widely known in the Frankish lands, receiving further development through the Penitential of Theodore of Canterbury in England and on the Continent,[1] and so in due time returned to Scotland. But as Bishops of the Church Catholic they were called to put into execution the canons of the Fourth Lateran Council. The Fourth Lateran Council of 1215 was really an outcome of Gratian's work in the middle of the 12th century. By its study Churchmen felt how disorganised and inadequate was the law of the Church in many directions and how badly it was being observed. Hence was called together this Council for disciplinary purposes and its enactments were promulgated widely. The Scottish bishops and clergy were therefore made acquainted with this Council and could thereafter draw directly from the whole body of the Canon Law that had been collected by Gratian, the decretals of the Popes, and other sources, as well as copy the decrees of the provincial councils of the neighbouring English Church.

It would appear therefore that the Provincial Council in all matters that pertained to their jurisdiction—and all matters that religion touched in any sense at all they claimed as theirs—was the source of Canon Law authoritative in Scotland, as adopted from the general Canon Law or other sources, or as adapted as the case might warrant. It has been held that there was no executive to carry out the law as laid down by the Provincial Council, but the body to do that surely was the Bishop's Court in each diocese. True, from the Bishop's Court there was no appeal in Scotland because there was no metropolitan (at least till 1472) except temporarily at the time

1 Watkins : A History of Penance, pp. 762 *et seq.*

of the great Schism. Neither the Conservator nor the Council seems to have had appellate jurisdiction. Appeals went to Rome. But with the Bishop's Court lay the obligation of enforcing Scottish Canon Law or imposing penance or punishment upon the offender.

The Consistorial Court of each diocese was presided over by the official. He was an ecclesiastical judge expert in the Canon Law and fully cognisant of the civil law also. These officials were drawn from an extraordinarily able class of Churchmen, who from an early date in Scotland had given themselves to the study of Canon and Civil Law. It is of interest to know how this fact is confirmed in the case of the churchmen attached to the Cathedral of Aberdeen. The Registrum Episcopatus Aberdonensis contains two inventories of the books in the Cathedral Library, the first made in 1436 and the second in 1464.[1] The earlier is particularly strong in treatises on Canon Law and the later shews that books on Civil and Canon law made up the great proportion of the volumes, and apparently those most commonly borrowed were those dealing with Canon Law. There is therefore proof that at this time the intellectual activity of ecclesiastics was concentrated upon this study which found outlet in the practice of the ecclesiastical courts. So high an authority as Cosmo Innes says that the greater part of the law business of Scotland, both civil and ecclesiastical, was before 1532 done in the courts of the "officials" of St. Andrews, Edinburgh and Glasgow. He also states that so satisfactory was the administration of law in their hands—partly owing to the inadequate nature of the lay judicature in the hands first of Committees of Parliament and after 1532 of the (for a time unpopular) Court of Session—that they extended their jurisdiction over many kinds of civil cases as well as of those properly defined consistorial. Sometimes parties before a civil judicatory agreed mutually to bring it before the ecclesiastical courts for decision.[2] It should be mentioned

1 Reg. Epis. Aberdon. 2 Scotch Legal Antiquities (ed. 1872), pp. 238-239.

that the judicial proceedings in these Courts did not follow the ecclesiastical model, making use of Jewish and early apostolic procedure, but were conducted according to the Roman or civil law.[1]

To go through the Statutes that have been preserved is to discover what the Scottish Church of those centuries concerned itself with, and is at the same time to understand the nature of the cases that came before the Bishop's Court. The records of the Consistorial or Bishops' Courts of Scotland have nearly all perished, although some records of the judicial sentences of the "Official" of Lothian and of the Official Principal of St. Andrews, both about the second quarter of the sixteenth century, remain. A vast amount of work had been done by these courts. The bulk of it had consisted of Consistorial causes. "The Bishop's Official had by law the sole cognizance, "not only of suits *directly concerning religion and morals and* "*Church discipline*, but also of others in their nature mixed "(according to modern ideas, chiefly temporal), as to which "the ecclesiastical preceded the civil jurisprudence in estab- "lishing the doctrines of moral obligation on which they "depended."[2] These included matrimonial causes, divorce, questions of legitimacy and bastardy, probate of wills, testacy and intestacy, cases of slander, disputes between churchmen over tithes, dues, property, etc.; moreover the Canonists extended their jurisdiction over all questions of contract where these had been made on oath—as being quasi-religious; everything connected with the Church or incidents that may have happened in the Church precincts were brought within the jurisdiction of the Courts of Christianity.

How did the Bishop's Court deal with such causes? The Provincial Council in large measure legislated in the interests

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1 Andrew MacGeorge: The Church in its relation to the Law and the State, ed. Story, p. 19.

2 Lord Selborne, Defence of the Church of England against Disestablishment; quoted by Andrew MacGeorge, *ibid.*, p. 11.

of order and government and discipline as far as its jurisdiction permitted. In a sense the Council also set the problems to be solved, for its statutes are a registration of the sins of Churchmen and the disorderliness of the lives of Christian people.

Many of the Statutes deal with the Christian law of marriage and with all the related questions of divorce, separation, adultery, succession, etc., and at the close of the Roman obedience in Scotland, the time of the Bishops' Courts seems to have been very largely taken up with matrimonial and kindred causes. In this connection it does not seem to be necessary to state what was laid down as being the general principles of the marriage law of Scotland at this time. It was the marriage law of western Christendom. It is applied to Scotland by the Statutes, 66, 83, 121, 124, 155, 156, 251, 252, 294 and 244, "Of Causes relating to Matrimony."[1]

The question of marriage and divorce was greatly affected by the insistence of the Canon Law on the Prohibited Degrees of Consanguinity and Affinity. Unions were often formed in ignorance of the relationships which the complicated laws of Consanguinity and Affinity had created between the parties, and which, if afterwards discovered, and the parties willing to take advantage of them, gave room for opportunities of divorce. The records of the Consistorial Courts show that causes under the law of Prohibited Degrees were a frequent source of litigation, and especially where the parties wished to obtain divorce.[2] If they were content to be united in wedlock, the relationship if discovered by them was not divulged, and in any case dispensation was not difficult to obtain.

This question of marriage has been a vital one to the Church since its beginning. In the earliest days the Church claimed that its law of marriage for its members was its own and not that of pagan Rome. Through it all we see the Church's anxiety to preserve the purity of the union between man and woman and the absolute necessity for the well-being

1 Patrick: Stat. of the Scot. Church. 2 As preserved in the Liber Officialis Sancti Andree.

of Church and State of a consecrated family life. But turning from a subject which is big enough in itself to require treatment from the point of view of discipline, how did the Court deal with other matters that came before it? The following judgments are from the Sententiae of the Official of Lothian (1512-1552) and the Official Principal of St. Andrews (1541-1554).

The parishioners of Liberton and those who had the care of the fabric of the parish Church, bring serious charges against the vicar. The Court suspends him for three years "for his enormities and crimes" and excommunicates him for his contempt, and disobedience to the letters of the Archbishop.

The Archbishop of St. Andrews petitions the Court to declare that the prior and monks of Pittenweem have incurred inability to receive "orders" in the Church or to exercise the functions attaching to "orders" already possessed, because of some alleged case of manslaughter among them.

These are both instances of the trial of clergy before the Bishop's Court, and in the first excommunication is the judgment.

Margaret Smyth had defamed Margaret Rattray and she is sentenced to appear at the time of high mass before the altar within the Church of St. Giles, Edinburgh, and there publicly on her knees to ask the forgiveness of Margaret Rattray. It is an incidental proof of the continuity of many of the forms of penitence, whatever may have been their differing content, that we read in the minutes of Kirk Sessions of men and women being asked to go down on their knees before the Session and acknowledge their faults.

Ellen Bell is excommunicated for striking another woman in the Church in presence of the Sacrament. She then is prescribed a penance—to appear the next Sunday in the Church, and in the presence of the judge, to offer to the priest celebrating Mass a lighted wax candle, of half-a-pound in weight, to ask his forgiveness, and on bended knees, and with face uncovered, humbly to beg the pardon of the judge

and of the woman whom she has assaulted. After which she was to be absolved from the excommunication, but in no other way.[1]

Bishop Dowden quotes these cases, and they are quoted here as being the best instances of two principles of ancient discipline :—(1) these two last cases are identical with the public penance of the primitive church, that we considered in our introduction ; (2) it is noteworthy that at a time when the Confessional was thoroughly established in Scotland, and when penance was awarded to be done after the bestowal of absolution, here is an instance too of the penance of the primitive Church, the granting of absolution only after the Church is satisfied with the penitence of the offender. Other decisions may be singled out, of a more purely legal kind such as the declaration by the Court that a certain will has been forged ; or the excommunication of the Earl of Bothwell for "unjust and daring intromission" with certain tithes of corn without the licence of the Archbishop of St. Andrews.

On the whole these facts emerge, that the Bishops' Courts or Courts of Christianity did, right down to the eve of the Reformation, preserve something of the practice of public penance used in the Early Church ; that they did seek to carry out and enforce the legislative enactments of the Provincial Council, and that though in many instances their judgments savoured of the civil courts, they still awarded penance or demanded spiritual satisfaction, sometimes ex-communicating and sometimes absolving.

There is a considerable consensus of opinion, both contemporary and modern, that the Courts Ecclesiastical were no respecters of persons, and that justice could be looked for from the judges or officials, and that the Courts faithfully administered the law which the Council promulgated in Scotland. In justice to the other point of view, we must not forget Sir David Lindsay's charge that justice could not be got.

Had these decisions always been left to stand, the respect

1 Dowden : Mediaeval Church in Scotland.

for the Canon Law and Church discipline might have been much greater, and the effect upon the religious life of the people wholesome and lasting. But the system of papal dispensations and indulgences made for the weakening of the law of the Church. The Pope claimed the power of dispensing with any ecclesiastical law of human institution, i.e., with any of the later developments of Canon Law, and not with any of the Divine Precepts or authority of Holy Scripture. And he exercised this right in a great variety of ways, some for good, as exceptions to hard and fast rules have often to be made in any sphere, either for good order or the good of persons involved, but these dispensations were often bought and sold, and brought the law into disrepute; the law enforcing the residence of priests in their parishes, for instance. *The Calendar of Papal Registers* records how Henry de Lichton (afterwards Bishop of Moray and Aberdeen) although appointed rector of the benefice of Kinkel in 1409 was allowed to be absent for five years studying, while he drew the stipend all the time.[1]

Marriage dispensations, as we saw, were frequent.

It was the law of the Church that none might hold a living in it who suffered from "defect of birth," i.e., who was illegitimate. The idea underlying this canon was that the holy ministry should retain the respect of the people and that indirectly marriage should be honoured. But mediæval Church history in Scotland and elsewhere is full of evidence that the Church was the happy hunting ground in which families of influence could always succeed in getting a "living" for offspring that suffered this defect. Dispensations to allow of this were a scandal; so also the illegitmate sons of priests found their way into the ministry of the Church, and benefices, contrary to the Canon Law, were conferred upon children, mere boys and youths. The *Calendar of Papal Registers* contains very numerous instances of dispensations of this kind. The wisdom of an occasional exception to the Law had

1 C. P. R.: Petitions, i., 347.

degenerated into a systematic abuse, and perhaps as much as any other consideration brought the discipline of the Church, of the fifteenth and sixteenth centuries in particular, into discredit and disrepute.

To sum up, in the Statutes of the Provincial Council we see the Church in Scotland trying to bring its whole moral weight to bear on the clergy and the laity. It is a centralising of the power of all the bishops in an attempt to bring the whole law of the Church (its legislative power) and the weight of its censures (its disciplinary action through the Bishops' Courts and the Sacrament of Penance) to bear upon the life of all its people. And in the questions of life and morals which the Provincial Council dealt with, they were arrogating to the Church no new power; for in the history of the disciplinary action of the Church, which we have sketched, the Church has claimed to deal with all these matters, e.g., matrimony, wills and testaments, usury, etc., as being matters to which the application of the new Christian law must be made. In fact it is probably just at this point that the conflict between the two jurisdictions of the Church and the State comes most frequently to a head. The Church sees the necessity for the application of Christian principles to all the social relationships of men; she tries to enforce these in her own society; she has tried to enforce them over the wider field of all human society, a policy which the State has often resented.

The Canon Law of Scotland has been effective in this latter respect in that it has influenced the civil law of the land and imprinted upon it something of its own character, as for instance in the marriage laws.

But our concern is with the immediate effect of the Provincial Council's work and that of the Bishops' Courts and the Confessional on the life of Scotland of that time. Is there any way of estimating their effect upon the morals of the people? For a valuation of these ordinances such an estimate should be made and yet there is nothing more difficult to do. Protestantism paints the life of the clergy of

the two centuries before the Reformation as a life of luxury, debauchery and immorality, and the life of the people tainted with the sin and shame of their shepherds. Contemporary literature in Scotland spares not the manners and conduct of the clergy. And we have the evidence of the Statutes of the Provincial Council itself. It is a register of the "enormities" of Churchmen, and reflects a condition of Church life that makes painful reading in our age. One could parallel the worst of the Statutes with resolutions of Assemblies and Church Courts deploring the lamentable conditions of post-Reformation morals and declining Church life. These are to be found *passim* in the Acts and Proceedings of the General Assembly. The inference to be drawn from this is that it is difficult to get from the Church at any time a dispassionate and critical statement of the moral condition of a people, comparing it with the conditions that had obtained in earlier times. In the Statutes and the later Assembly resolutions we hear the conscience of the Church speak, and the higher her conception of Christian conduct, the greater the emphasis will she put on her present imperfections. This is not to minimise the fact that in thus registering her own sins the Church is acknowledging her failure to produce the fruits of righteousness. "To him that knoweth to do good and doeth it not, to him it is sin." Yet a conscience that has not been lulled to sleep witnesses the existence of a true spiritual concern. One wonders what Scotland would have been in the middle ages without the Church and without those instruments of spiritual and moral discipline which she wielded. The reason for their failure may be found in the imperfect nature of the instruments themselves. In the Sacrament of Penance discipline was left in the hands of the individual priest, and in the Bishop's Court the judgment also lay with the judge, the Bishop or his Official, the only appeal being to the Pope, or after 1472 to the Official Principal of St. Andrews. It may be that the vesting of disciplinary powers in the person of parish priest or diocesan official seemed as if discipline was

not in the hands of the whole Church, and that the expression of the common mind of all Christian people upon offences against Christian morality was not expected or required. If there is anything in that suggestion, it would be subversive of discipline.

But perhaps the Church's failure was because of her success. She began poor; piety added to her resources and these resources increased so much, that actual wealth corroded and corrupted the ideals of the monastic life and accounts for much of the lewdness and spiritual disease that infected both clergy and laity in the fifteenth and sixteenth centuries. Yet a Church which founded the Universities of St. Andrews, Glasgow and Aberdeen, which built the cathedrals and some of our stately parish churches, a church under whose guidance the prosperity of the people so increased that the Sumptuary Laws had to be passed, is a Church surely in which the life of the spirit is not quenched.

CHAPTER THREE.

The Theory and Practice of Church Discipline in Scotland as influenced by Continental Policies and as illustrated by the earlier Reformed Standards of the Church.

ALTHOUGH we shall see how in the immediate post-Reformation period the form of Church Government seems partly Episcopal and partly Presbyterian, and how later during the First Episcopacy (1610-1638) that form is superimposed upon the Presbyterian Church Courts, yet one thing is clear, that at the Reformation a change in the form of Church government took place in Scotland, and the institution of the Eldership (and Scriptural diaconate) is one of the signal changes effected at that time. It marks the recognition of the laity's responsibility in the government of the Church, and particularly its place in the ordering of the discipline of the Church.

Although we would, if possible, in this study avoid entering into the vexed question of the respective merits or historic precedence of Episcopacy or Presbytery as the true form of Church government, yet it is not possible to evade the issue that the change that took place in Scotland at the Reformation was effected for the promotion of better discipline in the Church, and the Eldership seems to have arisen to order more effectively the life of the Church and the morals of the people.

We saw the wide ambit of the business which came before the Bishops' Courts, much of it being of a secular kind. Before 1543 David Lindsay in his writings, though a defender of the Kirk of Christ, called for the laws to be more strictly enforced and all "temporal matters" to be taken out of the hands of the Bishop's Court; this was the first clear demand for the secularisation of the Christian law of the Church.

Much of this business at first passed into the hands of Kirk Sessions or groups of laymen associated with ministers who seem spontaneously to have come into being and existed some years before the year 1560, which is the date of the accomplishment of the Reformation in Scotland. In St. Andrews this Session or "Consistorial Court of the Minister and Elders," as it was called, functioned a few years before 1560, and in that year and the years following was carrying on smoothly the work formerly done by the ecclesiastical courts.[1] We find this court entertaining requests for divorce and giving sentence;[2] requests for declarator of marriage on ground of promise *cum copula;*[3] ordering proclamation of banns to be made and information to be given to the scribe of the Consistorial Court (Session Clerk), if necessary in the parishes of both parties; and cases of adultery and fornication are dealt with.

It is very significant to observe that when first we light upon the eldership in Scotland it is engaged upon the practical work of watching over the flock of Christ, correcting abuses, and reforming manners and attending to those consistorial causes which knit society into an ordered whole. The exact origin of the eldership in Scotland seems to be somewhat uncertain. There were elders appointed in Dundee and Edinburgh in 1556 and 1557. Knox returned from Geneva in 1555, but soon had to betake himself there again. Some have suggested that in his short visit he was able to plant in the minds of reformers the ideas of the eldership as he had seen it at work in Geneva and Frankfort. But there was hardly time for that, and the earliest Scottish eldership is an unsystematised and spontaneous thing compared with the "Seniors" who met with the ministers in a consistory on the Continent after the Calvinistic fashion. The origin may go farther back than this, back to those vague longings of the Church in Germany and Switzerland and other lands after a more scriptural pattern of

1 St. Andrews Kirk Session Register, ed. Hay Fleming. 2 *ibid.* pp. 19-27. 3 *ibid.* p. 29.

Church offices and officers. The transplanting of these longings to Scotland and their earliest realisation may be due to Wishart. It is not without significance that it was first in Dundee that elders were appointed and that in Dundee Wishart had wielded a very great influence. After 1538 when he had been driven from Scotland he travelled in Germany and Switzerland, and on his return he preached the new doctrines in Dundee and Montrose. He also translated the "First Helvetic Confession" into Scots. It is thus not unlikely that the first "eldership" in Scotland was in a measure due to George Wishart's influence. The office of elder was found in the Church both under the Old Testament and the New, and it was one that had escaped the corruption or over-elaboration which nearly all other offices had suffered in the Roman Church. Moreover the Reformers were really desirous of reformation, particularly reformation of morals, and as the instruments of discipline in the Church had been entirely in the hands of churchmen and priests, they saw in this scriptural and lay office a way to check the excessive power of the priest and to exercise the power of the laity in the administration of the Church and of discipline in particular. These thoughts were common to reformers in all lands.

Calvin's "Institutes" were published in 1536, and Wishart, who was martyred in 1546, ten years later, must have learnt something of the system of Calvin when he visited Switzerland, although he must have been best acquainted with that body of Protestant thought which had effected the Lutheran reformation. His teaching and the familiarity with Continental reformed doctrine, which trading intercourse between east coast towns and the Low countries had bred, must have introduced into Scotland many of these ideas. One was that of the congregation with a minister, assisted in government and discipline by a number of the congregation, which, vaguely held at first, was later shaped and hardened into form in 1560 by Knox and his associates after a more purely Calvinistic model. At this point it may be well to make a brief reference

to the influence which the Reformation on the Continent had upon the question of Church government and discipline in the Church as reformed in Scotland.

It cannot be said that the Reformation in Germany affected the Scottish Church in this particular at all. Luther had no genius for administration, and seems to have had no belief in discipline as it had been conceived in the Catholic Church. One of his symbolic acts was to burn the volumes of the Canon Law. He was the first to regard preaching as an instrument of spiritual discipline, and the two sacraments means of preserving the purity of the Church. Luther's lack of disciplinary system, as against the system of Rome, was largely due to his insistence upon preaching as the chief element in the power of the Keys—a view which passed into the Augsburg and other Confessions. It is true that in some of his earlier works Luther does stress the need for discipline. In the early constitution for the Church at Leisnig, submitted for his approval, emphasis is laid on the maintenance of a strictly moral life, under penalty, in the Christian congregation.

The relation of Church and State in the Lutheran teaching is not clear, but apparently Luther was willing to yield up a good deal of discipline to the Civil Magistrate. "If there be a "public sinner, whom the Civil Magistrate has not punished, "he should not be admitted to Holy Communion. If I do "admit him, I am partaker of his sin."[1] This seems to imply that punishment by the Civil Magistrate was regarded as "satisfaction" by the Church, and that absolution automatically followed or was pronounced, while the Church only disciplined those who escaped the civil judgment. Yet, like later Reformers in Scotland (cf. Kirk Session Register of St. Andrews), he did not abolish the prison to which the Bishop's Court sent offenders. "I have obtained of the "Prince Elector that a prison shall be built for the punish-"ment and discipline of offensive ministers and preachers."[2]

Luther's caution allowed him to go so far as to approve

1 Luther: "On Ex-communication" in Table Talk. 2 *ibid.*

theoretically of Presbyterianism, but it was not adopted by the Lutheran Church, and the rights of the people were not fully recognised, matters of discipline being left largely to the civil ruler, even the privilege of appointing ministers being until recently exercised by the State.

The influence of Calvin, however, is all important in the polity of the Reformed Church in Scotland, and his rigorous discipline found a welcome home in the Scottish Church. Calvin, a born organiser, advanced his disciplinary system to almost as important a place as it had held in the mediaeval Church, although in methods and practice the two systems greatly differed. It is significant to note how, in spite of the great changes he made in discipline, the mediaeval methods still find expression in the ethical work of his followers. We have already seen how Casuistry arose in the Mediaeval Church as the science of treating Christian ethics as consisting of cases of conscience, each of which had to receive appropriate spiritual treatment.[1] That method was continued by the Reformers, and in his *Institutes* the Christian life is treated by Calvin as a great system of duties to self, to others and to God.[2] The sources of his "casuistry" differ from those of the mediaeval casuists and canonists in that he disregards the Fathers and the Councils and accepts only Holy Scripture and the Christian conscience as authoritative. The classical work of Calvinistic Casuistry, and the great Protestant Manual on the subject, is the *Medulla Theologiae de Conscientia eius Jure et Casibus* of Amesius (William Ames, 1633), which treats Christian ethics in the old Roman way as specific cases of conscience. This treatment was continued in English Puritan circles, and is seen in the work of Richard Baxter.

But even before Amesius, Melancthon, a contemporary and associate of Calvin, had dealt with cases of conscience after the manner of the Roman books and penitentials, and the influence of Calvin and Melancthon on the early Reformed Church of Scotland is not far to seek. In the *Book of the Universal*

1 *vide* pp. 20-22. 2 "Institutes," Book iii., Ch. vi.

Kirke of Scotland—the earliest record we have of the Church—will be found, interlarded with the minutes, paragraphs headed "Questions and their Answers" which seem to be questions of morals propounded to the Assembly and answered by them,[1] e.g., 1566—"It is asked, if any may contract mar-"riage with ane woman once married, and her husband "departing from her to other countries, and being absent nine "or ten years together, the woman having no testimonial of "his death or not. Answer: That the woman desyreing to "marry ought to seek, or cause to seek, whether her first "husband be dead or not, and to report ane sufficient testi-"monial of his death or ever she may joyne herself to ane "other husband."

1567. "Whether if it be lawful to marry her whom he "before in his wife's tyme had polluted with adulterie, his wife "now being dead. Answer: The Kirke will not grant this "thing to be lawful that God's law damns; neither yet admitt "any sic marriage for causes contained in the law."

Such questions may have come up from Sessions or the Elderships to the Assembly for authoritative judgment, but in the first instance they seem to be problems or particular cases of morals, and Sessions must have had to deal with many such, taking the place formerly filled by the Confessional. Indeed, in the case of anxiety or scruple, Calvin directed "an application to the Pastor in the way of private confession and commended it as a remedy provided by our Lord, and as such not to be neglected without breach of duty."[2] And to this Calvin subjoined his opinion of private absolution, that it is of no less use and efficacy wherever it is wanted, in aid or in cure of any singular infirmity.

The foregoing is interesting as illustrating the transition from the Confessional of the priest to discipline by minister and elders. For in the *Institutes*[3] Calvin laid it down as a primary maxim that Ministers (Bishops) should be associated

1 Booke of the Universall Kirke of Scotland. 2 Institutes III. 6, 4. 3 *ibid.*, IV. 3, 8.

in the exercise of discipline with "seniors" selected from the people on the grounds that in Apostolic times each church had its "senate" (L. Senatus, Fr. conseil or consistoire) composed of pious, grave and venerable men in whom was lodged the power of correcting faults.

Without going into the question of discipline as developed in the *Institutes* and as put into practice in the Church at Geneva, where John Knox ministered, it is sufficient to state that in the *Confession of Faith* received and approved by the Church of Scotland in 1560, and which was formerly used in the English Congregation at Geneva, it is set forth "that the "third marke of this Church is ecclesiasticall discipline, which "standeth in admonition and correction of fautes. The final "ende whereof is excommunication, *by the consent of the Church* "determyned if the offender be obstinate."

There is no further development of the institution than these words signify in this earliest standard of the Church; but if we want to know briefly the lines upon which this discipline was conducted we have it set forth in the *Old Discipline* of the English Congregation at Frankfort of which Knox was one of the two ministers from 1554 to March, 1555. *The Discipline or Book of Order of the Reformed Churches of France* was drawn up in May, 1559, and no doubt had influence on the Scottish standards of 1560. But it had time to bring its influence more to bear on Scotland at a later date, as we shall see.

The Church at Frankfort was founded on a Calvinistic basis and its standard while Knox was minister was *The Order of the Old Discipline of the English Church at Frankfort.*[1] The word "discipline" is used to describe the whole policy of the Church, which in this case is just one congregation; this discipline has two parts, one pertaining to the whole Church, the other to the Ministers and Elders alone.

In the discipline pertaining to the whole congregation, we have first the mode of admission to the congregation by a

1 Troubles at Frankfort, Eliot Stock, 1908.

Confession of Faith before Pastor and Seniors; the behaviour of the person so confessing must also be taken account of by the Pastor and Elders. Then follows a paragraph treating of "the good behaviour and godly conversation required of such as are received," and another as to the training of the young in the congregation. Then two sections follow treating of "Discipline" proper in its restricted sense of correction for offences. The first is "the order of Correction for private and privy offences"; "for their godly and charitable redressing and reformation." It provides that "if any of the congregation be offensive in manners or doctrine to any of the brethren, so that the offence be private, and not publicly known," no better order can be devised than that which Christ appointed:—first, "brotherly to admonish him alone; If that do not prevail, call one or two witnesses; If that also do not profit, then to declare it to the Pastor and Elders; to whom the Church hath given authority to take order in such cases."

Then follows "Of the Order of Correction for public and open crimes." It provides that, "if any person shall be a "notorious known offender, so as he is offensive to the whole "Church, then shall the Pastor and Elders immediately call "the offender before them, and travail with him to reduce him "to true repentance, and satisfying of the congregation; "which if he obstinately refuse to do, then the Pastor shall "signify his offence and contempt to the whole congregation; "desiring them to pray for him, and further to assign him a "day to be denounced Ex-communicate before the Church; "except in the meantime the offender submit himself, before "the Pastor and Seniors, to the Order of Discipline."

One or two points are to be noted about this order. First, it preserves the ancient division of sins into private and public, as practised by the primitive Church, which division, as we saw, in the course of time was one of the tendencies making for development into the Sacrament of Penance on the one hand, and the Bishop's Court on the other. But note how in this order although a sin may be regarded as private, and the treat-

ment of it may never come before the whole Church, anything like confession to one person is guarded against (except it be the person offended) by the introduction of witnesses and the declaring of it to the Pastor and Elders, who are given authority to deal with it by the Congregation. The treatment of public and open crimes is not left to an ecclesiastical judge of high rank, but is dealt with by the Pastors and Elders, who if the case require it, report the matter to the whole Congregation and ask them to appoint a day for the excommunication of the offender before the Church. These differences are noteworthy, but we shall see that the division into private and public offences is continued in the Scottish *Order of Excommunication and Public Repentance* of 1567.

The Second Part of this *Old Discipline* of Frankfort contains "the discipline concerning the Ministers and Elders; and their Elections." There are the four-fold offices of Pastor, Preacher (the Doctor of the later Scottish standards), Elder and Deacon. "The Office of Elder is to be, as it were, Censors, Overseers of "manners and disorders; and to be with the Pastor in all "consultations for the public Order of the Church: and that all "corrections and exercises of Discipline be done with their "common counsel."

This is a very clear definition of what the Eldership came to be in Scotland, and we know that Knox worked for a year under this discipline before he formed the English Congregation at Geneva, whose discipline must have been practically identical.

There was a longer statement of Discipline drawn up in Frankfort after Knox left it, when the Congregation became Anglican though still Calvinistic in doctrine and discipline. We need hardly refer to it here, except that it makes explicit what may have been implicit in the *Old Discipline*, e.g., that Elders or Seniors and Deacons were to be elected for a year only (Art. 39)—a principle adopted in the *First Book of Discipline;* that in the event of a dispute in the Session, the whole Congregation was to be the final arbiter, (Art. 44) a hint of the democratic character of the Church outlined in the

First Book of Discipline; that the Ministers and Elders were to be an executive not to make decrees but to administer the decrees of the Congregation (Art. 38)—democratic notes which continued to be sounded in the Scottish standard. This Discipline developed a form of Process not unlike that which the Church of Scotland adopted in her Order of 1567.

If the above new order at Frankfort was not known to the Scottish Reformers,—and there is every likelihood it was—their formularies bear evidence of a common source in the discipline of Calvin. Calvin had had to fight for the right of the Church to excommunicate without consulting the civil powers, a right of spiritual independence which at last the State admitted. The Calvinistic Churches, though acknowledging the State was also instituted by God for the ordering of temporal things, admitted no subservience to civil power—a note which though marked in the earliest stages of the Reformation in Scotland, grew even more pronounced in its expression as stated in the *Second Book of Discipline.*

To get the conception of Church Discipline held by the Church of Scotland just after the Reformation, it will now be necessary for us to examine the three earliest documents that define the nature and policy of the Reformed Church. *The Scots Confession of Faith of 1560* was produced by Knox and his associates in response to an invitation of the Scottish Parliament that the preachers of Protestant doctrine should summarise their teaching. Section 18 is practically the only one that need concern us. It is entitled "of the notes by "which the True Kirk is discerned from the False, and who sall "be Judge of the Doctrine." "First, there is the true preaching "of the Word of God; secondly, the right administration of the "Sacraments of Christ Jesus; last, Ecclesiasticall discipline "uprightly ministered as God His Word prescribeth, whereby "vice is repressed and vertue nourished." These three marks or "notes" are the same as specified by Knox in his short "Confession of Faith" used in the English Congregation at Geneva, which is incorporated in the *Book of Common*

Order received by the Church of Scotland in 1564. They are also the three marks specified by Calvin in his *Institutes* and found also in the *First Helvetic Confession.* This Section 18 seems to indicate further that "a true Kirk of "Christ is a Congregation, such as was in Corinthus, Galatia, "Ephesus, and other places in which the ministrie was planted "by Paul, and were of himself named the Kirks of God." Therefore it was evidently believed that a congregation might exercise discipline, a hint of the later more explicit vesting of disciplinary power in the people. Otherwise in the "Confession" there is no development of Church Discipline. It is noteworthy, however, to observe how far this assertion of Church Discipline as one of the "notes" of the Kirk is modified by Section 24, "of the Civil Magistrate." That section rates all civil officers very highly, and contains this: "Moreover, "to kings, princes, rulers and magistrates, we affirm that "cheeflie and most principallie, the conservation and purga- "tion of religioun apperteaneth, so that not onlie they are "appointed for civill policie, but also for maintenance of true "religioun, and for suppressing of idolatrie and superstition "whatsoever." As we shall see later, the attributing of so large powers to the civil magistrate may well have been taken by the State as the abrogation by the Church of her authority to make and administer laws relating to marriage, divorce, consanguinity, wills and testaments, usury, etc., which up to 1560 was largely in the hands of the Church, as carried out by the Provincial Council.

This virtual abrogation of certain areas of discipline is confirmed by the *First Book of Discipline.* Therein, under the Seventh Head of Ecclesiastical Discipline we read:—"As no "good commonwealth can endure without Laws and sharp "execution of same, so neither can the Kirk of God be brought "to purity and retained in same without the order of Ecclesias- "tical Discipline which stands in the reproving and correcting "of the faults which the civil sword either doth neglect or may "not punish." "Blasphemy, adulterie, murder, perjury and

"other crimes capital, worthy of death, ought not properly to "fall under the censure of the Kirk, because all such open "transgression of God's laws ought to be taken away by the "civil sword."

That is not so much an abrogation of the discipline of certain offences as an abrogation of the death penalty, which the Church had not claimed to execute since the early middle ages, and a recognition that the State executes that penalty. *The Order of Excommunication* states that if the Civil Magistrate absolves a man from such crimes, the Church may not excommunicate, but "injoine unto him such satisfaction is to be made publicly "to the Church as may bear testification of his obedience and "unfained repentance. If the offender be convict, and execution "follow according to the crime, then, upon the humble sute of "him that is to suffer, may the Elders and Ministers of the "Church not only give unto him consolation, but also pronounce "the sentence of absolution, and his sin to be remitted according "to his repentance and faith."

But to come to a fuller consideration of the *First Book of Discipline.* It was laid before a Convention of Nobles in 1561. It was never formally ratified, but was in general accepted by the nation. It expresses the mind of the compilers of the *Scots Confession of Faith*, i.e., Knox and his colleagues, on such practical questions, as the policy, government and discipline of the Church.

It is a difficult book to set a value upon, for it bears traces of the upheaval of the thought of the time in its hurried compilation, its confused and conflicting ideas, which confusion is seen in the indeterminate structure of the Knoxian Church. Of course, we have to remember that whether the Church of this time was tending to be Episcopal (for it had not the three-fold ministry) or Presbyterian (for there was not absolute parity among its ministers) yet discipline was exercised, just as later discipline was continued under a distinctly Presbyterian form, and a subsequent Episcopal period. But it is a question to interest us how far the character of the officers of the Church

at this time was determined by the needs of discipline and supervision.

The *First Book of Discipline* recognised four office-bearers, sanction for whose offices is found in Scripture, Ministers, Doctors or Teachers, Elders and Deacons. But Knox was not bound by a crude literalism, and as a development out of this scriptural four-fold type of ministry arose the offices of "superintendent" and "reader." The offices that we are here concerned with are those of the Superintendent, the Minister and the Elder. When to-day lament is made because of the lack of discipline in the Presbyterian Church mention is sometimes made of the desirability of restoring the office of Superintendent. It is thus hoped we would get effective episcopal supervision without having the person or the name of bishop. But the office of Superintendent was a very vague one that arose out of the necessities of the time, and for several reasons was semi-episcopal in character, and not altogether for discipline in the sense for which the office of elder very largely came into existence. There was a great scarcity of trained ministers, and the *First Book of Discipline* lays it down that "the duty of superintendents is to plant and erect Kirks, to set "order, and appoint 'ministers' so that the number of available "true ministers be well distributed over the country." That was the real reason, a matter of organisation so that all the people might hear Christ preached. In such a time it was easier for an individual to travel and organise the ministry over a wide area (ten districts corresponding very closely to the thirteen ancient dioceses were mapped out for the Superintendents whose chief residences were to be normally at the old Episcopal seats), than for a Court of the Church, for indeed at this time courts hardly existed and were only emerging out of the chaos. But according to the *First Book of Discipline*, "the "Superintendent, being elected and appointed to his charge," (the form of service used at Edinburgh, 9th March, 1560, is preserved in the *Book of Common Order* and does not add to our knowledge of the office except that a superintendent had to be

called to the office by "public consent") "must be subject to the censure and correction of ministers and elders not of his chief town only, but of the whole province over which he is appointed overseer."[1]

This method of inferiors supervising superiors is not an entirely new principle. The mediaeval Bishop had the right to investigate the conduct of the members of his Chapter, but the Chapter was also entitled to send a monition to the Bishop "as sons to a father" if they were aware of culpable conduct on his part.[2] And just before the Reformation a Committee was appointed to examine the morals of the Archbishops. In the Assembly (at this time of Ministers and Commissioners for individual congregations) Superintendents had to sit as ordinary Ministers. In 1567, Parliament fulfilled the wish of the Church and gave legal authority to the Superintendents. A modified form of Episcopacy was adumbrated in the Convention of the Church at Leith in 1572.[3] The titles of Archbishop and Bishop were to be retained and a Chapter of learned ministers was to be set up at every Cathedral seat. The Bishops were to have powers similar to those assigned to the Superintendents by the *Book of Discipline*. Under the *Book of Discipline* a minister chosen by a congregation had to be examined by "ministers and elders" (a group of those in the neighbourhood, as at this time there were no Presbyteries proper); under this Leith Convention Scheme the Bishop (or Superintendent) had to be advised by at least six of his Chapter in the admission of ministers. It will thus be seen that the office of Superintendent was a very anomalous one and a very dangerous one for a Church which had begun by repudiating the doctrine that the Bishop was an order superior to Presbyter. How anomalous we can imagine when John Erskine of Dun, Superintendent of Angus, opined that "Superintendent and Bishop were all one" and when John

1 First Book of Discipline VI. III., 9. 2 Dowden, Med. Ch. p. 88.
3 *vide* Rev. Prof. Cooper—Hist. Papers to Christian Unity Association, 1914.

Knox gave his support to this order taken at Leith.[1]

Anyhow, the unpopularity of the office with the majority of the Church accounts for its falling into abeyance, even before it was annulled by the doctrine of the Divine Right of Presbytery fiercely held and promulgated by Andrew Melville. The office, we think, seems to have been more administrative than disciplinary. For instance, at the General Assembly, 5th July, 1569, in the trial of Superintendents (which was a regular item of Assembly business) "the Superin-"tendents of Lothian and Fife were delated for slackness in "visitation and reparation of the fabrick of Kirks. Mr. John "Kerswell, Superintendent of Argile was rebooked for accept-"ing the Bishopric of the Iles, not making the 'Assemblie "forseene.'"[2]

In 1567, "Adam, called Bishop of Orkney, was delated for "not visiting the kirkes of his countrie, from Lawbmesse to "Allhallowmess."[3]

In the second Assembly of 1562, however, there is this entry in the *Book of the Universal Kirke*:—"It is concluded "by the whole ministers assembled, that all ministers shall be "subject to their Superintendents in all lawful admonitions, "as is prescryved as weele in the Book of Discipline as in the "election of Superintendents. That Superintendents take "compt what Books every Minister has in store in the tyme of "their visitation, and how the saide ministers and every one of "them does profite from time to time in reading and studying "the same." That is discipline proper of ministers, and it is by the ministers themselves who, along with elders and deacons, vest the power of taking action in Superintendents who are of their own number elevated to that office; this is a method that might well be developed.

But by the *First Book of Discipline* the power of discipline

1 Book of Univ. Kirke, 1574; General Assembly at Edinburgh lays down jurisdiction of Bishops shall not exceed jurisdiction of Superintendents. 2 Calderwood Vol. II. (ed. Woodrow Society), pp. 490-491. 3 *ibid.*, p. 393.

was given mainly into the hands of the Ministers and Elders. In most respects the Minister was set to do the work that the priest of the old Church had been expected to do. "He "might not leave the Flocke at his pleasure to which he had "promised his fidelity and labours, nor the Flocke reject or "change him at their appetite." The former injunction is now kept more often in the breach than in the observance, though a minister after he moves for a call and secures it, has still formally to ask leave of his Presbytery, but the latter injunction cannot be got over by the flock, even if they would. His duty is to preach the Word and administer the Sacraments, privately to admonish his flock and if the Congregation agree to ex-communicate, he has to pronounce the sentence. His duty in the exercise of discipline, is defined in conjunction with that of the Eldership.

We have already considered the spontaneous origin of the Eldership in the Scottish Church (pp. 57, 58). We must here treat the office as the *First Book of Discipline* treats it, an office *de facto*. Suffice it to say with regard to the claims that have been made for its scriptural origin, that "scriptural "institution is not claimed by our standards for this office; "but they adduce in support of it (a) an O.T. precedent; (b) "the fact that among the flock persons are found with those "gifts of the Holy Spirit which are requisite for counsel and "rule; which gifts ought to be recognised and utilised by the "Church. To such persons the Church therefore gives "commission for the regular exercise of the same; not as if "thereby creating an ordinance, but by the right inherent in "the Church 'to set down rules and directions for the better "ordering of the government of the Church.'" [1] Head VIII. of the *First Book of Discipline* deals with the election and duties of Elders. "Election ought to be made every year "once, lest of long continuance of such officers, men presume "upon the liberty of the Church."

1 Wotherspoon and Kirkpatrick, "A Manual of Church Doctrine," p. 117; and Confession of Faith, xxxi., 3.

They are "to assist the minister in all public affairs of "the Kirk, in determining and judging causes, in giving "admonition to licentious livers, in having respect to the "Manners and Customs of all men within their charge."

But a still greater power is given the Elders. They are "to take heed of the life, manners, diligence and study of the "minister. If worthy of admonition, they must admonish "him; of correction, they must correct him; if worthy of "deposition, they, with consent of the Kirk and Superin-"tendent, may depose him, so that his crime deserve so." Indeed this method of dealing with a "stubborn and inobedient" minister goes farther, and Elders, perhaps themselves of inconsistent life, "may complain to the ministry of the two next "adjacent Kirks, where men of greater gravity are." Again, "every inferior Kirk shall, by one of the Seniors (Elders) and "one of their Deacons, once in the year, notify unto the "Ministers of the Superintendent Kirk the life, manners, "study and diligence of their ministers. . . ." And the wives, children, and families of ministers come under this supervision; they must live "neither in excess nor in avarice."

We thus see something of the extraordinary powers that were first put into the hands of elders (and deacons to some extent). "Of long continuance," indeed, officers with such powers "might well presume upon the liberty of the Church." Obviously it supplied two wants in the Roman system. (1) It gave the congregation, especially as long as the office was elective, a direct share in the management of Church affairs and in discipline in particular. Under the Roman system the people had had no share. (2) It provided a much more rigorous supervision of ministers than the visitation of bishops and archdeacons provided for the priests. And the experience of Christendom at the time pointed to that being required.

The Seventh Head of the *First Book of Discipline* is concerned with the censuring of offenders, i.e., the subject of Church Discipline proper according to our definition. The ancient terror of excommunication was not to be reduced

under the new system, and it became a kind of social ostracism. Instead of examining the matter under this head, let us proceed to the *Form and Order of Excommunication and of Public Repentance.* And we do so for this reason, that in 1563 it was agreed to revise the *Book of Discipline*, and this Form was one of the results, as witness its preface: "Albeit "that in the Book of Discipline the causes as well of publict "Repentance as of Excommunication ar sufficientlie ex- "pressed, yet because the Forme and Ordour are not so "set furth, that every Church and Minister may have "assurance that they agree with utheris in proceeding, it is "thoght expedient to drawe that Order which universallie "within this Realme shal be observed." This *Order of Excommunication and of Public Repentance* is a document of considerable length, but as it makes explicit the whole doctrine of Discipline as set forth in the *First Book of Discipline*, it is important that its main principles should be grasped.

All crimes that deserve death deserve excommunication, such as "wilful murderers, adulterers, sorcerers, witches, con- "jurers, charmers, and givers of drinks to destroy children, and "open blasphemers," the offender to be tried before the Superintendent. But if he allege a reasonable defence, the sentence of excommunication is to be suspended till the Civil Magistrates have an opportunity of trying the case. If the Magistrate be negligent, then the Church is to proceed to public admonition, and the Magistrate being still remiss, the Church should then pronounce the offender excommunicate. If the offender abide an assise, and is absolved, the Church may not excommunicate, yet it may demand of the offender public satisfaction to the Church, *i.e.* proof of penitence and obedience. This seems to imply that the decision of a civil court does not need to be taken cognizance of by a Church Court—a principle always maintained by the Church. And it is borne out by the further clause in this Order, that if the offender be convicted by the Civil Magistrate, and sentence follows, upon the humble suit of him that is to suffer, the Elders and Ministers of the Church

may not only give him consolation, but "absolve him from his "sin according to his repentance and faith."

If he is to be excommunicated, the form of the sentence to be said by the Minister in audience of the people is given. Once it is pronounced its revocation is not to be had at once. The parties offended must be reasonably satisfied by the offender, and even then forty days must elapse after the offender's first approach to the Church, before the Church tries whether there be signs of repentance. He may be admitted to the hearing of the Word, but "not to participation of prayers. "Then after forty days the Superintendent or Session, may "enjoine such paines as may try whether he be penitent or not, "the least of which shall be that he shall stand three several "Sundayis in a publicke place before the Church dore, bare-"futed and bare-headed, cled in a base and abject apparrell," making his confession and craving the people to pray unto God for him that his crime be remitted. This is no doubt the warrant upon which the Church in the following two centuries founded such physical and material accompaniments of penitence which appear in Session and Presbytery records in such profusion and variety. Similar "paines," as will be afterwards seen, are imposed for the satisfaction of the Church in the process for the restoration of those who flout Public Repentance and are for their obstinate rebellion excommunicated. After further procedure the Minister shall ask the Church "if they "desire any further satisfaction." If satisfied, the Minister pronounces his sin remitted according to his repentance, and exhorts the Church to embrace him as a brother.

This section for the restoration of the penitent excommunicate is so reminiscent of the "stations" of penance (*vide* Introd. p. 11.) which we have already considered, especially of the procedure recommended by the Council of Ancyra (314 A.D.), that it is almost certain that the framers of this early Scottish Order of Discipline were aware of it; "he may be "admitted to the hearing of the Word" (*i.e.* one of the ἀκροώμενοι, cf. Ancyra) "bot in no wyse to participation of prayers, nether

befoir nor efter the sermon (not one of the ὑποπίπτοντες); in his appeal "before the church dore bare-futed and bare-headed for the prayers of the Church he is one of the προσκλαίοντες. When all satisfaction is given, the Minister "pronounces absolution according to his repentance" (c.f. Roman doctrine that there is no real absolution if there is no genuine penitence), and the exhortation to the Church to embrace the offender as a brother corresponds to the fraternal kiss and the admission to Holy Communion consequent upon reconciliation, according to the procedure of Ancyra.

Historically, this distinct resemblance is interesting; the Reformers are already beyond their Scriptural warrant, and well on the way taken by the primitive Church towards an extra-canonical development of discipline.

To proceed with our analysis, the next section is "Apostates to Papistrie." If they do not after due opportunity recant their papistical beliefs, they are to be excommunicated, due notice being given the two preceding Sundays.

We come now to what is the main section, "Offences that "deserve publick Repentance, and Order to proceede therein-"till."

"Such offences as fall not under the Civill sword, and yet "ar slanderous and offensive in the church—and of these some "are more haynous than others—fornication, drunkenness used, "swearing, cursed speaking, chyding, fighting, brawling and "common contempt of the order of the Church, breaking of "the Sabbath, and such like, aucht to be in no person suffered; "—the offender should be called before the Ministry, his cryme "provin, accused, rebuked, and be commanded publiklie to "satisfy the Church (i.e., to satisfy the requirements of the "Church by giving proof of the genuineness of his penitence). "If he refuses, then he is to be excommunicated in due form."

Less heinous sins specified are vain words, uncomely gestures, negligence in hearing preaching, abstaining from the Lord's Table, suspicion of avarice or pride, superfluity or riotousness in cheer or raiment. These deserve admonition

in Church members. The method of procedure in these cases is the Scriptural one, first, admonition by one or two members; if amendment be promised the matter takes end. If not, the second step is taken before two or three witnesses; if no satisfaction, the third step is to bring the offender before the ministers and elders, who shall now accuse the offender of the offence plus the contempt of admonition. Upon amendment, no further publication is required.

There have already been three steps in the process. The fourth is that the crime is declared to the Church (without name of the offender) and the person admonished is to satisfy in public what he refused to do in private. If he offers himself to the Church before the next Sunday, the discretion of the ministry may be used for satisfying all parties and declaring the repentance and submission of the brother.

The fifth step is the second public admonition, with name and sins disclosed, and then the satisfaction only to be in public, and even that is now not to be allowed except upon humble submission of the offender; it is a privilege for which he has to sue.

The sixth step is the third public admonition, with excommunication imminent for his added contempt and disobedience. If after the fifth or sixth step, the offender craves to be admitted to Public Repentance, the Session have to see to it that he is instructed in the nature of sin, the fear of God, and the meaning of repentance and grace. That is the seventh step, and the eighth is his presentation before the public Church upon a Sunday after the Sermon. "Then the Minister shall say"—and here follows a disquisition on what public satisfaction is. It is a means of grace both to the congregation and the offender. In the sin of the brother, before them, the congregation are to "accuse and damne their own sins and ask God's mercy." The congregation is identified with the sinner, and the prayer is made that the hypocrisy and impenitence, which separate men from the mercy of God in Christ, may be taken from the offender and the congregation. The Minister

addresses the penitent brother in words of great sympathy and adjures him openly and simply to confess his crime.

The Penitent then confesses the crime and asks mercy, and entreats the Church to intercede for God's mercy. The Minister asks the congregation if any further satisfaction be required, and if none be required, the minister again addresses to the penitent words of warning for the future, and admonishes the Church to be warned by this example ; a prayer of thanksgiving is offered, and "the minister shall require of the penitent, "if that he will be subject to the discipline of the Church, in "case that he after offend, who answering that he will, the "minister shall say, in manner of Absolution :—

"If thou unfainedly repentis thy former iniquity, and "believes in the Lord Jesus, then I, in his Name, pronounce "and affirm that thy sins are forgevin, not only in earth, but "also in heaven, according to the promises annexed with the "preaching of his Word, and to the power put in the Ministrie "of his Church." The condition of unfeigned repentance, explicitly put here, is that which is implicit in the Catholic form of absolution. Then follows the indicative form of the Absolution according to the power put in the Ministry of his Church. This is virtually claiming for the Minister the Commission given to the apostles, for ministry here seems to mean minister, as there follow in contradistinction the words—"Then "the Elders and Deacons in the name of the whole Church take "him by the hand and embrace him, in sign of full reconcilia-"tion." But if the offender does not confess, and is still stubborn after the third public admonition (the sixth step in the process), the Minister, being before charged by the Session or elders, announces the grave necessity of proceeding to deliver him to Satan for the destruction of the flesh, that his soul be saved in the day of judgment.

Reasons for excommunicating are given out of Scripture, (a) Christ's saying that they must be held as heathens and publicans who will not hear the voice of the Church ; (b) St. Paul's treatment of the incestuous person ; (c) the precept of

the law to expel from the midst of God's people such as were leprous.

So the Church is purged of wicked doers, every member is retained in obedience and fear, and evil leaven is removed.

The sentence is delayed and a prayer for the conversion of the impenitent is made. The following Sunday the Minister in audience of the Church, asks the Elders and the Deacons if the offender has offered them his obedience yet. If so, the offender is commanded to appear before the Session, where order may be taken for his public repentance, as before set forth.

If not, the Minister again "opens up" the meaning of excommunication and its danger. It is a cutting off from the Body of Jesus Christ, from the Sacraments and public worship.

Then the former prayer made for the offender's conversion is repeated. This is the eighth step in the process.

On the third Sunday a similar proceeding is followed, and if there is no submission, the Minister announces the need of proceeding ; yet in great charity, a last prayer is made for his conversion (the ninth step). "If after it, the obstinat compeir "not to offer his repentance, the minister with dolour of heart "proceeds to execute that which the commandment of Jesus "and the practice of the Apostle show they ought to do."

A prayer is made in which the name of Jesus Christ is solemnly invoked, to excommunicate the impenitent, together with the sentence of excommunication, a terrible and complete cutting off from the society of Christian people. The *First Book of Discipline* says, "that children begotten after that "sentence and before repentance are not to be admitted to "Baptism till they be of age to require the same, or else the "mother and friends shall present the child."

Then follows "The Ordoure to receave the Ex-communicat "agane to the Societie of the Church."

This is the process for the restoration of those who flouted Public Repentance and "for their wickedness and obstinat "rebellion hath been excommunicat from the bodie of Jesus "Christ."

Application must first be made to the Ministry, the Elders, and Deacons; the Excommunicate must appear before them, who shall diligently inquire for signs of repentance, what his behaviour has been in time of his excommunication, what he will offer for satisfaction to the Church, and to whom he hath shown his grief. If satisfied, the Minister is to report to the whole Church; then the Ministry may appoint to him "the satisfaction." "He must stand at the Church dore, at the least "moe Sundays than one; which dayis being expirid, and the "hole satisfaction complete, some of the Elders shall pass to "the Excommunicat . . . . and shall present him to an "certain place appointed for penitents, where he shall stand in "the same habite, in the which he maid satisfaction, until the "sermon be ended; and then shall the same elders that "brought him into the Church present him to the Minister, "with these or like words."

Then they explain how the offender is repentant, "so far as the judgment of man can perceive, for he hath not only craved "the favours of the ministry that he might be received into "the body of the Church again, bot also most obediently hath "subjected himself to all that we have commanded, for trial "of his humiliation." (This is the "satisfaction" or proof of his penitence).

The Minister shall question and examine him. Then thanks are given. "The prayer conteining his receaving to the "Church" is said and the "Forme of Absolution" is pronounced. "With consent of this hole ministery and Church," and "the "hole ministery" and those next him shall embrace him.

About ten more or less distinct steps are taken before a sinner is excommunicated, and about as many more before a penitent can be restored. All chances of precipitancy or miscarriage of justice are sought to be avoided. Through it all one feels a yearning for the restoration of the sinner and for the purity of God's House, and that it is full of a true Christian sentiment. There is nothing harsh; the congregation in its unworthiness is identified with the sinner. The process although

it may be contracted at the discretion of the minister, is yet so long that, where there were many cases of discipline, its charitable character must have lost something in necessary compression and formality. Its impartiality must have commended its use. In the *First Book of Discipline*, the last paragraph under the VIIth head lays it down, "To discipline, "must all the Estates within this realme be subject, as well "the rulers as they that are ruled; yea, and the Preachers "themselves, as well as the poorest within the Kirk: And "because the eye and mouth of the Kirk ought to be most "single and irreprehensible, the life and conversation of the "minister ought to be diligently tried."

It lays down that a minister should be deposed for heresy, and it is well to note the definition of heresy. "By heresie we "mean pernicious doctrine plainly taught, and openly (obstinat-"elie) defended, against the foundation and principles of our "faith." The whole life of the minister, his wife, children and family in every particular are to come under the control of the Kirk, and so too the lives of the elders and deacons. "One of "the seniors and one of the deacons of every inferior Kirk are, "once in the yeare, to notify unto the ministers of the Superin-"tendent's Kirk, the life, manner, study and diligence of their "ministers,"—a foreshadowing of Presbyterial Superintendence, but in a more drastic form, as it is a report by the laity on the clergy.

It is in Chapter X. of this *First Book of Discipline*, that we see laid the foundation of that system later known as Privy Censures. After dealing with the Election (and office) of Elders and Deacons, this chapter deals with the censure of Ministers, Elders and Deacons. As we have just noted the life of the Minister is open to review by the seniors; "he can "be admonished and corrected" by them; and the "elders and "deacons with their wives and household, should be under the "same censure that is prescribed for the ministers." No clear form is laid down for this sessional discipline; but we see how on the visitation of the Presbytery, the Minister of the Parish

is removed and his elders are asked concerning his character,[1] and (in 1651) the elders are removed and the minister is asked concerning them.[2]

From this and other points which we shall now note, it will be seen that the feature of this earliest discipline in the Reformed Church of Scotland, and the feature of the *First Book of Discipline* generally, is its *democratic* character. Indeed, it would appear as if all ecclesiastical authority proceeded from the people and not by virtue of any divine commission to the apostles or their successors, whether by these we understand bishops or ministers,[3] although, as we have noted on p. 77, the form there of Absolution is distinctly in line with the ancient practice, which is warranted by Christ's commission of binding and loosing to the apostles. The "democratic" character of this discipline is seen in these points:—

(1) In "the Fourth Head, concerning ministers and their "lawful election" . . . "it appertaineth to the people, "and to every several congregation, to elect their "minister," who of course must be examined by other "learned ministers." (Ch. iv. 3.)

(2) "The election of elders and deacons ought to be made "every year once . . . lest of long continuance of such "officers, men presume upon the liberty of the Kirk" (although elders and deacons are eligible for re-election).

(3) As we have seen above, "if the minister be worthy of "deposition, seniors may with the consent of the Kirk "and the Superintendent depose him." (Chap. x., 5).

(4) In the *Form of Excommunication* when receiving "the Confession of the Penitent," the minister "*shall require* "*of the Church, if that they desire any further satis-* "*faction.*" It is the congregation that gives judgment for or against the absolution of the penitent.

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1 The Presbytery Book of Strathbogie, p. 4 and p. 9. 2 *ibid.*, p. 193.
3 It appears so to Bellesheim, Vol. III., p. 10.

(5) Again in the same *Form*—"The Sunday, therefore, after the third public admonition, the Minister *being* "*before charged by the Session* or Elders, shall thus signify unto the Church" . . . the uses of excommunication and close thus, "But lest that we should seem to "usurp power over the Church or *to do anything with-* "*out the knowledge and consent of the whole body*, for "this present we delay the sentence." Thus the minister receives his instructions from the Elders, and even the minister and they cannot move without consent of the congregation.

(6) In the same *Form*, the form of excommunication pronounced by the minister, runs—"Here I, in thy name, *and at the commandment of this thy present congregation*, cut off, seclude, and excommunicate from thy body and from our society N., etc. . . .

(7) Again, in the same *Form* the Absolution runs . . . "In "the name and authority of Jesus Christ, I, the minister "of His blessed Evangel, *with consent of this whole* "*ministry* (*session*) *and Church* (*congregation*), absolve "thee . . ."

The ministers and elders are popularly elected, yet they have no real power, only an executive one. In all matters and in this particular one of discipline, it is the congregation that is the excommunicator and the absolver. Later, as we shall see, in 1578, by the *Second Book of Discipline* it is the Presbytery that is given authority to excommunicate the contumacious sinner, but by this *First Book of Discipline* the impenitent is to be "excommunicated by the mouth of the "minister, and consent of the ministry, and commandment of "the Kirk" (Ch. IX. 9).

The extremely democratic character of this discipline seemed to have commended it for long to a people who had known such discipline as there was entirely in the hands of a priestly caste. The nation at this time was straining after liberty and independence, and the fact that its people submitted to the

rigorous discipline of the Reformed Church can only be explained on the grounds that it was the expressed will of the mass of the people themselves. This democratic authority had no doubt something to do with making the public penance or satisfaction reasonable and proper.

We see how this discipline worked by examples recorded in *S. Andrews Kirk Session Register*. John Bycartoun would not present his own child for baptism.[1] He was three times publicly summoned, but was obdurate. He was finally excommunicated, and all the faithful were prohibited from associating with him. Then we read, "it hath pleased the "gudeness of the eternall God to move the hart of John "Bycartoun (efter lang obduracion, etc.) to humble himself and "compeir before the ministry." He was at last absolved, the minister and elders taking him by the hand.

It is not necessary to multiply instances of the successful outcome of this discipline against all kinds of offenders, which this Register has preserved—usurers, fornicators, breakers of the Sabbath, slanderers, etc. There are many cases of "obedientia"; "they confess and offer to underlye correction." Stiff though this discipline was, it was not harsh, much patience was often exercised, and contumacious ones were often finally won. The excommunication threatened or promulgated was total, and excluded from the Lord's Table, baptism, and from Christian marriage, which was regarded as a privilege, and none under the ban could be married before the Church.

As an example of the penance imposed, here is a case in 1759. "The seat ordains John Scott upon Sunday next to "come in presence of the congregation of this city, to sitt down "upon his knees, confess his offence maid against the said "Jonett, and pronounce thir words, haldand his awin tung in "his hand, 'Fals tung, thow lied,' and confess that he knows "nathing to the said Jonet bot gud and honestie. Item, siklyk, "the said John is ordenit and decernit be the seat to cum "every Sunday to the little kirk door at the second bell, thair

1 "S. Andrew's Kirk Session Register": ed. Hay Fleming, p. 194.

"to remain, beir-futted, baer head and face uncovered to the "third bell, and thereafter to pass to the penitent seat, and "ascend and descend thereupon moderatlie, and decernit to "appear every preaching day within the owk in his awin "apparell and sit under pulpit during time of sermon, and also "daylie to frequent morning and evening prayers."

It was conduct under an imposition like this that satisfied or did not satisfy the Kirk as to the penitence of the offender.

The examples which we find in Registers and Minute Books of the nature of the "satisfaction" required have their warrant in the *First Book of Discipline* itself or the *Form of Excommunication and Public Repentance*, in the passages we noted on pp. 74-75.

There must have been great variety in the execution of this discipline in the hands of consistories or sessions, determined no doubt by pre-Reformation usages and the impossibility of getting rid of all traditional methods. We read in the *S. Andrews Register* that one of the most frequent punishments was imprisonment. This imprisonment is distinguished from "satisfying the Church," and it has been suggested that it was a civil sentence running concurrently with an ecclesiastical one, or that it was imposed by a baillie of the town sitting in the session as an elder. The Register does not make the matter very clear. By this time the two jurisdictions, civil and ecclesiastical, were becoming clearly differentiated as they finally were by the *Second Book of Discipline*, and there would seem to be little excuse for the Session trenching on civil ground. Yet two facts remain, that the prison to which these ecclesiastical offenders were condemned was not the tolbooth but the Kirk steeple, and the jailer was the beadle. An explanation that is likely is that the Church Reformed had not yet cut with tradition and that the Bishop's prison of the Catholic period was the prototype of this Reformed dungeon.

CHAPTER FOUR.

The Change effected in the Character and Extent of Church Discipline by the Reformation.

BEFORE pursuing the history of the Reformed discipline the origins of which have been reviewed in the preceding chapter, it will be appropriate at this point to consider what is the nature of the change that took place in the disciplinary function of the Church in 1560. That is the accepted date of the accomplishment of the Reformation in Scotland, when the whole character of the Church was changed. Like other departments of the polity of the Church, Church discipline underwent modification and was even radically changed. Before passing too far away from this period of change, let us therefore look back to the methods of Discipline in use in the pre-Reformation Church and see what happened to them in the epoch-making religious and social upheaval that reached its climax in 1560.

The disciplinary instruments of the Roman Church were, we considered, three, viz.,

I.—The Sacrament of Penance.
II.—Archdeacons' Visitations.
III.—Bishops' Courts or Courts of Christianity.

I.—The Sacrament of Penance.

With the first, the Sacrament of Penance, we are not so much concerned here, as during the whole course of our later discussion of the Reformed Church discipline reference will have to be made to this subject. Suffice it to say that the Reformed Church abolished the Confessional. The Reformers did not believe in compulsory confession, even once a year. They did

not believe in the secrecy of confession. They did not believe in its sacramental character. They did not believe in entrusting the ministry of reconciliation to a priest with unlimited power of binding and loosing. For compulsory confession they encouraged voluntary confession of sin. Indeed confession was a duty, for before discipline or correction was at all possible, it was necessary that the offence, whatever it was, should be brought before the Church either by the offender's own confession or by the delation of him; but voluntary confession was better than confession under pressure, which more often was found necessary. Voluntary confessions which are found recorded in the earliest records of the Reformed Church are proof that confession to man as well as confession of the heart to God was encouraged, when made under the safeguards deemed necessary.

Instead of secret confession was substituted confession to a court, normally the Kirk session, sometimes the whole congregation, although in the spirit of our Lord's command, confession to a brother was sufficient, if the sin was slight and not scandalous. The Reformation doctrine that there were only two Sacraments instituted by Christ denied the character of a Sacrament to penance. And confession, when it was made in the process of discipline was not to one minister, but to the body of elders associated with him or even to the whole congregation. Thus it is patent in these broad facts alone that after the year 1560 auricular Confession as practised for centuries in Scotland no longer existed, except here and there among the small groups who continued their allegiance to the old Church.

II.—Archdeacons' Visitations.

While the Confessional was the first instrument of Discipline for all Christians, the Archdeacon's Visitation was the means of supervising and disciplining the lives and the work of the parochial clergy. The Archdeacon was the officer of the Bishop, who largely devolved his duty of supervision of the clergy and the churches in his diocese upon this officer.

The larger dioceses had two Archdeacons. Not only was the Archdeacon responsible for reporting on the benefices and properties of the churches to the Bishop, but he along with "deans of Christianity" had to report to the Bishop on the diligence and the behaviour of the clergy throughout the diocese. He had very large powers; he had a court for the trial of offenders like the Bishop, and also an "official." If parties had a right of appeal to the Bishop or his court, yet it was usually the Archdeacon who instituted proceedings and was responsible for discipline among the clergy.

At the Reformation this office certainly was abolished. Its disappearance however is due more to its secondary character; the duties of the office which were really inherent in the Bishop who commissioned the Archdeacon, were carried over to the Reformed Church and largely transferred to the Superintendent, whose office, like the Archdeacon's, was partly administrative and partly disciplinary; and later these duties again fell to the Bishops on their temporary return to power in the Reformed Church; and still later to Presbyteries, who really carry on this episcopal or supervising function in the Presbyterian Church. The list of queries to be returned by ministers in the Schedule entitled "Presbyterial Superintendence" is the successor of the Archdeacon's visitation articles. The examination of students of divinity and the trials of ministers before ordination by Presbyteries are duties that originally fell to the Archdeacon acting for the Bishop. The Benefice Register kept by Presbyteries had no doubt also its origin in the report upon benefices which it was the duty of the Archdeacon to make. It will be noticed that the conception of Church Discipline which we have had before us regards it as for "the correction of faults," but this supervision of the clergy, which is a very necessary part of church discipline in the eyes of the Church both Catholic and Protestant, is preventive of faults as well as corrective. And as we have seen, though under different officers the continuity of this Discipline was not broken by the Reformation.

III.—The Bishops' Courts or Courts of Christianity.

We saw (pp. 57-58) how boards of elders had come into existence some years before the Reformation, and particularly how, as its Register testifies, the Kirk Session of St. Andrews was functioning and carrying on smoothly the work which formerly the ecclesiastical courts had performed. One of the first entries in that Register is a request for divorce by William Rantoun against Elizabeth Gedde.[1] The sentence "in forme "as it was red oppinlie by John Knox minister in presence "of the Congregation" is in favour of Gedde. Catheryne Tweddell claims declarator of marriage on ground of promise "*cum copula.*"[2] There are various decrees of divorce granted.[3] Adulterers, who do not compear before the Consistory, are "decernit to be excommunicat." These cases are found in the years 1560 and 1561. And such continue till 1579.

We have already also noted how a common form of punishment ordered by this Kirk Session was imprisonment, and also how difficult it is to say whether such a punishment was passed by the Session or whether it was a civil punishment running concurrently with an ecclesiastical penance, and passed with the authority of a baillie or baillies sitting along with the Session. The Register is not clear upon this. But, whatever may be said of this mingling of jurisdictions, it does look as if for a considerable time after the Reformation, the Session carried on the kind of work and dealt with the kind of "cases" which had come before the old Bishop's Court. What is new is the sentence given openly in the face of the congregation, emphasising the place of the whole congregation in such matters, the attempt at democratising discipline which has already been considered. But this continuation of the work of the old Courts of Christianity is really only a remnant of the ancient form. The Roman Catholic historian, Bellesheim,[4] holds that "as the result of the Statutes passed in August, 1560, the

1 St. Andrews Kirk Session Register, pp. 19-27. 2 *ibid.*, p. 29
3 *ibid.*, pp. 130, 140. 4 Vol. iii. p. 106.

"bishops had lost that jurisdiction (consistorial) and the Courts "of their officials had been closed." The last clause of the Act of the Scots Parliament of the 24th August, 1560, is explicit as to that, "Ande that na Bischop nor uther Prelat "of this realm use ony jurisdiction in tymes to cum be the "said Bishop of Romeis authoritie under the pane foirsaide." This was ratified by Act 1567 C 2. Thus all episcopal jurisdiction exercised under the authority of the Pope and carried out by the Bishop's "officials" or "Commissaries" was abolished. It is true, indeed, that as late as 1566 Archbishop Hamilton of Glasgow, upon his appointment, had restitution of his jurisdiction in the probate of testaments and other matters. This, however, was only in the transitional conditions of the time.[1]

The provision hitherto made for the administration of justice in consistorial causes could not cease, and the Crown named a Commissary for every diocese, and by a special grant established a new Commissary Court at Edinburgh, which consisted of four judges or Commissaries (8th February, 1563). This Court was established by Act of Sederunt 1st March, 1563, and ratified 1592.[2] It had a double jurisdiction, diocesan in the area in which it was centred in Edinburgh, viz., the counties of Edinburgh, Haddington, Linlithgow, Peebles and part of Stirlingshire, and a universal jurisdiction dealing with the causes of parties who died in foreign parts and with powers to revise and reduce the decrees of the inferior commissaries, if appeal were made within a year. (See Act of Sederunt, 28th February, 1666). It is not necessary to follow the subsequent history of the Supreme Commissary Court of Scotland or the inferior commissariots except to say that these latter, which originally were commensurate with the dioceses and took the place of the "Officials," were abolished in 1823 (4 Geo. IV. C. 97), and each County was declared a commissariot with the Sheriff as Commissary, except that the Sheriffdoms of Edinburgh, Haddington and Linlithgow,

1 Encyclopædia Brittanica on "Ecclesiastical Jurisdiction." 2 Erskine: Principles of The Law of Scotland.

constituted the commissariot of Edinburgh. But gradually the powers of the Supreme Commissary Court became conjoined with those of the Court of Session, to which indeed an appeal from the Commissary Court had been granted by Act 1609. C. 6. The Court of Session was then declared the King's Great Consistory, and it took up in itself the powers of the Commissary Court which was abolished finally in 1836 (6 and 7 Will. IV. C. 41).

Thus the Court of Session had succeeded to the jurisdiction held by the Bishops' Courts in pre-Reformation days. As confirming its spiritual descent, it is interesting to note that when Bishops were re-established in 1610 in the reign of James VI. (The First Episcopacy), the right was restored to them of naming their several Commissaries ('officials') and the four judges of the Commissary Court at Edinburgh, two of whom were to be appointed by the Archbishop of St. Andrews and two by the Archbishop of Glasgow. This acknowledged the original ecclesiastical character of the Court. At the Revolution the nomination of all the Commissaries in the Kingdom devolved on the Crown.

The matters which were dealt with by the 'officials' and which were transferred to the Commissaries and are now for the most part dealt with by the Court of Session, were actions of divorce, declarators of marriage, nullity of marriage, legitimacy, bastardy and succession, wills and testaments. Intestacy was regarded with horror because there was danger to the intestate's soul in dying without giving fitting part of his estate to pious uses. The Council at Perth (1420) declares the right of Bishops to confirm wills and to name executors in case of intestacy—which it declares has been done from time immemorial. It is to be noted that by Act 1584, C. 6, III. 294, ministers are forbidden to be judges, commissaries, advocates, court clerks, or notaries except in making wills. These prohibitions all stand to-day, but even yet a minister is a notary in his own parish for the purpose of making a will—a remnant of the power of the ancient clergy. Questions of contract

founded upon oath, and all such consistorial causes were given over to the Commissaries. The Church Courts also dealt with matters concerning Church lands, tithes, churchyards, fabrics, ornaments, ritual and ceremonial of churches, administration of pious gifts and such ecclesiastical matters. These were all spiritual matters originally, some of them dealt with in the New Testament, and all of them the subject of ecclesiastical legislation and discipline and penance from the earliest Christian ages. In Scotland they were transferred to the secular jurisdiction at the Reformation, and have remained largely matters of secular concern since. We have already seen (p. 46) how the Provincial Council legislated for all matters that religion touched, and with what great measure of success the Bishop's Court in Scotland (p. 47) administered the law both civil and ecclesiastical, owing largely to the inadequate lay judicature, first in the hands of a Committee of Parliament and after 1532 of the Court of Session, a court that was long in commending its work to the nation.

Thus it came about that by reason of its very success the Church had extended its jurisdiction over certain kinds of civil cases as well as those truly consistorial, and at the Reformation the growing influence of the lay judicature, jealous of its power, recovered its jurisdiction and claimed that of the Church as well.

Erskine in his "Principles" has a prejudiced view of legal history when he writes thus :—"From the great confidence that "was in the first ages of Christianity reposed in Churchmen, "dying persons frequently committed to them the care of their "estates and of their orphan children ; but these are simply "rights of trust, not of jurisdiction. The clergy soon had the "address to establish to themselves a proper jurisdiction, not "confined to points of ecclesiastical right, but extending to "questions that had no concern with the Church. They judged "not only in teinds, patronages, testaments, breach of vow, "scandal, etc., but in questions of marriage and divorce, "because marriage was a Sacrament ; in tochers, because

"these were given in consideration of marriage, in all questions "where an oath intervened, on pretence that oaths were a part "of religious worship; and in the deprivation of notaries and "the trial of those that used false instruments. As Churchmen "came by means of this extensive jurisdiction to be diverted "from their proper functions, they committed the exercise of "it to their 'officials' or Commissaries, hence the Commissary "Court was called the Bishop's Court and Curia Christianitatis."

He surely does not know that St. Paul held it a scandal that Christians should sue each other before heathen tribunals (I. Cor., vi., 1-11), and that in the very next chapter St. Paul treats of the questions of marriage and divorce already vexing the Church. He does not know that Athenagoras records "how "Christians were not married according to Roman law, but "according to laws laid down by themselves." And we have already considered how the whole subsequent development of Canon Law, Church Discipline and Penance is really the growth of a Christian ethic in the Church in these matters consistorial.

In Scotland, as in England and elsewhere, at the Reformation, the ecclesiastical jurisdiction was reduced by the taking away of all powers in questions of matrimonial, testamentary, intestate and contractual matters. And some matters, such as union and disjunction of parishes, seats and seat rents, were taken out of the hands of the Church Courts and are of secular jurisdiction; though patronage, which now belongs to the Church Courts (*e.g.*, the law, *jus devolutum*), is an instance of the re-assertion of the rights of the Church in a matter which affects her well-being very closely.

But what Canon Law regulating marriage, legitimacy and succession the Scottish secular courts took over continued almost unimpaired in the common law of the land. In the law concerning marriage, for instance, the courts recognise marriage by *verba de praesenti* and by *verba de futuro cum copula*, which latter conception of marriage is based on a decree of Gregory IX. A feature of legitimation, which is not recognised in England, is legitimation *per subsequens matrimonium.*

This provision, which has a kindly regard for the title of children born before the marriage of their parents, has often been criticised as making for ante-nuptial fornication in our own time. Secular law has stereotyped it. There is no saying how the Church would have met this objection to one of her laws, for in the study of Canon Law one sees the readiness of the Church to meet new circumstances, revoking or letting fall into desuetude laws that are not helpful of her spiritual welfare, and framing new laws as she sees need.

Let us examine one or two instances of the control which the Church exercised over the faithful by instituting laws expressive of her recognition of the Church as a Christian society, of her real social outlook and sense of human solidarity. The instances we shall take are of laws for the violation of which members of the Church did penance, amended their ways, or were excommunicated. At the Reformation these laws were taken over by the secular courts, or were cast aside or allowed to lapse into desuetude.

(I.) First, there are the laws against usury. A history of the Church's attitude to usury or interest would of itself be a very big subject. Let us summarise the development of the Canons on this subject as they have come under our notice in this survey.

The Christian Church found the first inhibitions against usury in the Law (Leviticus xxv., 36, and Deuteronomy xxiii., 19, 20, also Psalm xv.). This form of exaction from his own race was forbidden the Jew, though he might lend with interest to one of another nationality. The exclusively national character of his religion accounts for this exception, but the principle nevertheless stands.

Aristotle ranked usury with prostitution, and Plato held "money was intended to be used in exchange, and not to "increase at interest." Yet it was all too common in Greece and Rome, in spite of warnings against it by such thinkers and laws made by these states. In both these states plutocracies arose through the small creditors being put into the power of

the rich and reduced thereby to slavery. In Rome, the minimum interest was 1 per cent. per month or 12 per cent. per annum, and it rose sometimes to five times that amount.

This was one of the first social problems on a large scale that the early Church had to face, and we soon find warnings and pronouncements against it coming from the Fathers. Cyprian (246-258 flor.) is one of the first to write against usury. He charges some of the bishops of the "Lapsed" that they attend markets and lend money at interest. He charges the Jews with this sin against their own Scriptures, and implies Christians did not sin this sin.

Canon 17 of the Council of Nicaea (325) enjoins that clergy practising usury shall be excommunicated and deprived. Basil (329-379) in his Second Homily on Ps. xiv. writes, "In truth it is the last pitch of inhumanity that one man . . . should be compelled to borrow . . . and another to make gain out of the calamities of the poor." The *Apostolic Canons* (about 370) urged strong penalties against usurers. It is therefore curious to find Gregory of Nyssa (372-395 flor.) lamenting the want of penal ordinances against covetousness in general and usury in particular and "against every acquisition by any sort of violence, which might cover itself under the appearance of a bargain."[1] And Chrysostom declares "nothing is baser than the usury of this world and nothing more cruel."

It is evident from such pronouncements and many others that the early Church was filled with concern at the prevalence of this practice, and especially with fear that her office-bearers, particularly the clergy, would give way to this pagan form of covetousness. They were largely the guardians of the Church funds and no doubt temptation to put them out to usury was particularly strong. It is clear too that, viewing the effect of usury in the Empire, they felt that it was destructive of the very spirit of brotherhood which was the distinctive mark of the Church of Christ. In the world it was a form of frightful

1 Gregory of Nyssa, "Treatise Against the Usurers" in J. P. Migue's Patrologiae Cursus.

exaction, and that bishops or clergy should be in any way involved in this oppression would be fatal to Christian brotherliness. Indeed, throughout the mediaeval period Canon Law pronounced that the savings of the clergy, at death, belonged to the Church and the poor. It was not theirs to make profit out of—a further proof of the Church's objection to usurious methods.

The Church was never able to abolish usury, and the subsequent growth of the Canon Law on the subject tends to show that, though the practice is *always* condemned, one exception after another was made.

Let us come to the Church's treatment of it in the period and country with which we are immediately concerned, and in the Statutes of the Provincial Council of the Scottish Church we find that the Church's traditional opposition to usury is continued by the successive pronouncements of Provincial Councils against it and usurers. In the General Statutes of the thirteenth Century, No. 51 includes "usurers" among those to be four times a year "collectively excommunicated."[1] The so-called Aberdeen Statutes of the same century contain the same general treatment of usurers (No. 69). Among those called the Constitutions of Bishop David, No. 122 enjoins the excommunication of "professional usurers." This statute belongs to the period 1239-1253. Accordingly we find in both the forms of the General Excommunication, which was published and fulminated in churches four times a year with great solemnity, "notorious usurers" or "common okkeraris" are included.

Among the Ecclesiastical Statutes of the thirteenth century No. 108, which treats "of the life and good repute of the "Clergy," lays it down "that they be not traffickers or usurers." A later Statute (163) which is among the Synodal Statutes of St. Andrews of the fourteenth century, includes amongst those to be generally excommunicated "common usurers." The inhibition against churchmen "trafficking," "buying vituals to

1 Patrick : Statutes of the Scottish Church.

"sell over again for the sake of a profit" is found as late as the General Statutes of 1558-1559 (No. 266). But the last explicit prohibition of the pre-Reformation Church in Scotland against usury is found in Archbishop Hamilton's Catechism of 1552 under the exposition of the Seventh Commandment, "Non furtum facies." "All that defraud or spoil the common "gear (weal) against the common weill for love of their own "private and singular weill. . . . Saxtlie, all usurers and "ockirraris against this command that wil nocht len their geir "frelie, but maks conditione of ockir (usury) against the "command of Christ," all these break this commandment.

Thus the Catholic Church officially taught that to take interest or usury was not the act of a Christian. And the Act of the Scots Parliament (1449, C11, II, 36) reflects this; "Persons who buy victual and hold it until a dearth to be "punished as ockerers." The first Act (1587 C 35, III, 451) of the Scots Parliament dealing with this matter *after* the Reformation is not an absolute prohibition but an attempt to regulate the amount of interest. "Persons making bargains "for *interest of more than £10* (or five bolls victual) per cent. "per annum, to be punished as usurers." Later acts are to the same effect, and in 1633 (C 21, V39) we find "legal interest "reduced from 10 per cent. to 8 per cent., the Act to come "into operation in two years, meanwhile interest above 8 per "cent. is to be paid to the King."

The Reformation in its early phases upheld the Canonical view. Luther would have nothing to do with usury. He said "To exchange anything with anyone and gain anything is to steal." It has been claimed that Calvin was the first thinker to allow the taking of interest. He allowed moderate interest, but it may be said he censured even while he permitted. The earliest Anglican divines forbade interest.[1] So, too, did the earliest Reformed Standards of the Church of Scotland. Knox's *Order of Ecclesiastical Discipline* (1560)—"if there be any blasphemer, drunkarde, slanderer, *usurer*—they oght not to

1 *v.* A Discourse upon Usury, by Thomas Wilson, edited by R. H. Tawney.

"escape either admonition or punishement." Usury is not mentioned specifically in the *First Book of Discipline* (1560) or the *Order of Excommunication and of Public Repentance* (1569), but according to the St. Andrew's Kirk Session Register, under date, 29th December, 1568, we find Katharine Neische "delatit." She "is discernit to desist and cease from usurie in all tyme "cuming under paine of excommunication." In 1578 in Edinburgh people are delated for being "usurers and lenners of money for profit."

The *Second Book of Discipline* (1578) VII., 16 puts "usurie" among the sins for which ministers may be deposed, and in 1581, as the *Booke of the Universall Kirke* records, "Causes of "deprivatione (of ministers) we take it to be—heresie, papistrie, "common blasphemie, perjurie, adultery, fornication, incest, "slauchter, theft, common oppression, common drunkenness, "*usurie against the laws of the realm*, non-residence, etc.," classing usury with the most deadly sins.

In 1596, the Assembly drew up "The Common Corruptions of all estates within this Realm" (*Book of Universal Kirke*). Among the long list of sins this occurs—"Oppression under "pretext of law, by usury and by contracts against law, for- "stalling of markets, ane regrateing by gentlemen, burgesses "and commons whereby price of victual is marvellously raised "to the great hurt of the poore, etc." Pardovan, writing between 1708 and 1711, in Book IV., Tit. IV., "Of the Vocational "Faults of Ministers and Probationers," says, "Item, ministers "are not to take usury, and if they continue therein, they "are to be deprived. By the 44th of these canons, called "*Apostolical*, '*Episcopus*, ***aut*** *presbyter*, *aut diaconus*, *usuras* "*exigens a debitoribus*, *vel desistat*, *vel ordine mulctator*.'" And in Book III., Tit. XIII., he defines usury to be of four classes, and quotes the Acts against it, passed in the reign of James VI., but these as we saw were regulative and allowed latitude unknown before and at the Reformation.

Cases of discipline for usury are very infrequent in Session records, and the law seems to have been a dead letter long

before Pardovan's time. Indeed, it is doubtful if usurers were disciplined at all after 1600, for by the time of the Act of 1633 (C. 21, V. 39), we read of "the legal interest of 10 per cent."!

It remains to be said that by the Statutes passed by the Roman Church in Scotland in 1700, which have substantially continued in force down nearly to the present time, usury is declared to be "the demanding of exorbitant interest on loans "and is unlawful and the faithful are to be cautioned against "such practices." But in 1774, Bishop Hay answered an Irish Dominican, who maintained the old Canonical rule that the receiving of interest on loans was absolutely unlawful, by seeking to prove the equity of demanding a moderate recompense for money lent, "especially in consideration of changes "that in course of time had taken place in the economic life of "nations."

And so we find that the Churches, both Roman and Protestant, in the course of time give way before the school of Adam Smith, and when a Moneylenders' Bill (1925-1926) was before Parliament, the difficulty was to say what is a reasonable rate of interest, for, if a State believes in unrestricted competition and the highest possible profits in all enterprises, private or national, no civil check can really be put upon excessive rates of interest. All the Acts of Parliament limiting the gains of the usurer are now in desuetude, and the claims of company promoters and monopolising trusts will not suffer to be thwarted by a too drastic treatment of the moneylender.

Social reformers trace many of our economic evils to the cessation of the Church's inhibition against usury. Two facts of importance emerge from this discussion, (1) that the Church's inhibition of usury was a witness to the fact that economics are not the impersonal, intractable power the modern world has come to believe they are, but are capable of being brought within the moral and spiritual control of man; (2) that it is evident from the foregoing considerations that such control became more rapidly impossible when the Church no longer spoke with one voice, when her discipline was weakened by her

dismemberment, and when the secular states became free to assert their sovereignty and compete with one another.

(II.) The second instance we shall examine is that of the canonical law relating to the overlaying of infants. In the Aberdeen Statutes of the Thirteenth Century, No. 56, "on Baptism," contains this—"Let women be admonished to "nurture their children with care and not to keep them when "very young beside themselves during the night, lest they be "smothered (by overlying); let them not leave them alone in "houses where there is a fire, nor leave them alone near water, "and let this be insisted upon every Lord's Day."

These are kindly laws, instinct with a deep social sense, worthy of the Church. No. 78 "Of the caring for children of tender age" repeats the first part of the foregoing Statute. Archbishop Forman in his Synodal Constitutions (1516-1521 A.D.) directs thus:—"That the overlaying of infants and "innocents, which often happens, be avoided: therefore the "said most reverend lord archbishop enjoins on parents and "nurses of the said infants that such infants shall in no wise "be allowed into the beds of grown up persons till at least two "years after their birth, but that they be tucked in (not with "bed-clothes merely, but with straps across the cradle) and "separately and carefully deposited in their cradles." And vicars and curates are to admonish parents and nurses accordingly in public, under penalty of suspension from the celebration of divine rites.

In the Reformed Standards we do not read of this regard for the protection of child-life specially mentioned.

The following interesting case was reported in the public press (31st December, 1925):—"The danger of mothers "allowing babies to sleep with them was emphasised at an "inquest at———(in England) yesterday on the 28-day old "child of an iron worker. The baby slept with the parents, "and in the early morning was found by the mother bleeding "at the nose and blue in the face. The coroner said that "parents who could not afford a cot should use an orange box.

"In Continental countries it was an offence for parents to take "a baby to sleep with them, and until this country made it "punishable, he was afraid mothers would not realise the "danger to which they exposed their children. Death was "due to suffocation, due to pressure against the mother."

Continental countries had adopted in their civil law the ancient provisions of the Canon Law. England, which was never so much under the influence of the Canon Law as France or Scotland, preferred her old Saxon laws, and had never therefore adopted this particular law, which a Coroner, perhaps entirely unconsciously, now recommends her to adopt. The law, being known in Scotland in pre-Reformation days, should have been, one imagines, carried over into the civil code, as has happened in Continental countries. But we can find no trace of this having been done; on the contrary the law in Scotland is much like that in England. If a baby is overlaid and dies, the Fiscal investigates the matter, and if there is evidence of criminal intent or criminal negligence (e.g. the parent being drunk), then a prosecution follows.

There is little doubt but that had the act of sleeping with an infant been counted an offence by Roman law, it would now form part of our Scottish law, which it does not. Here then is an instance of the greater kindliness of Christian law and of its social significance. Yet at the Reformation the Reformed Church neither adopted this law itself nor secured its adoption by the secular courts. And it is another instance of the narrowing down of Church Discipline to matters not always so pertinent to the social well-being of the community.

(III.) A third instance of a crime against Church and State, which the Catholic Church regarded as a sin against her society and against which she directed her severest discipline, is that of procuring abortion. This evil, which the Church proceeded against with her censures, was left to be dealt with by the civil law soon after the Reformation.

Amongst those against whom the General Excommunication of the Church was to be directed and fulminated four

times a year are included "Al thaim that castis thar barnis at "kyrk duris or in othir placis to be perist ony maner of way. "Al thaim that distrois barnis consavit betuex man and "woman be drynkis or ony maner of way, for conceling of "synn or ony othir thing." The first clause is directed against the exposure of children, an evil which was common in pagan society, and which, it will be universally admitted, was successfully overcome by the Christian Church wherever it penetrated. Here we have the Church's denunciation against those who in the thirteenth century in Scotland in a society leavened by Christianity still persisted in this pagan cruelty of exposure, and it was doubtless by such discipline and Christian instruction that the Church nearly eradicated that crime before the State dealt with it.

There is reason to believe that the Church was no less in earnest in her determination to put down this other sin against child-life or potential child-life. The Scottish Statutes, however, contain no later pronouncement of the Christian law and discipline in this matter. The secrecy of the sin makes dealing with it difficult, and it may oftener have been in the Confessional than in the Bishop's Court that the Church had to deal with it.

That the sin still persisted and that the Church had still a mind upon the matter is witnessed to by the fact that in the Reformed "Order of Excommunication and of Public "Repentance" of 1569, it is referred to at the very beginning of that document. "In the First, it is to be noted, that all "crymes that be the law of God deserve death, deserve also "Excommunication from the society of Christ's Church, "whether the offender be Papist or Protestant . . . thairfor "willful murtherars, adulteraris (lauchfullie convict), sorcerars, "witches, conjurars, charmars, and *gevars of drinks to destroy* "*children*,—such, we say, aucht to be 'Excommunicat from "'the society of Christes Church,' . . ."

The method of dealing with those charged with this crime is ambiguous as between Church and State. The offenders

are appointed to compear before the Superintendent and his assessors to answer for themselves. If the offenders compear not, charge may be given by the Superintendent to the ministers to pronounce the sentence of excommunication upon them. But if the offenders put forward a defence, and promise to abide an assise, then the sentence of excommunication may be stayed till the magistrate tries the case. If no remedy be found by the magistrate, then the Church may excommunicate the offenders. If they be absolved by the Civil magistrate, then may not the Church pronounce excommunication, but may enjoin such "satisfactions to be made publicly to the Church, as may bear "witness (testificatioun) of their obedience and unfained "repentance."

This ambiguous division of discipline between the Magistrate and the Church in the matter of this evil and others could only have one end, and the correction or punishment fell into the hands of the State. Pardovan, writing in 1708-11, declares (Book III., Tit. X., 11), "The taking of potions to "cause abortion, after the child was quick, should be capitally "punished, though the using such means before the *foetus* "*fuit animatus*, or to hinder conception, is to be punished "arbitrarily." By the 91st Canon, Concilli Sexti in Trullo,[1] it is thus determined: "*Eas quae dant abortionem facientia* "*medicamenta, et quae foetus necantia venena accipiunt, homi-* "*cidae pœnis subjicimus.*"

Enough has been said to show that it was Christianity (not entirely without debt to older Hebrew teaching) which created a Christian conscience against this evil. The Church formulated her opinion into a definite Christian law, passing censures upon offenders. In Scotland the law is still recognised, but its enforcement has passed out of the hands of the Church into that of the State, leaving it to the Church to do what she wills with offenders who are of her membership.

We have touched upon this particular object of Church discipline and its history, because the Church (and the State

1 The Quinisext Council, held in Constantinople in 692 A.D.

too) is faced to-day with a problem of a kindred character but of very much larger proportions, the question of the artificial prevention of conception or, as it is popularly known, birth control. That the problem is already vexing the Church of Scotland is evidenced by the fact that in the Volume *Social Evils and Problems* published in 1918 by the Church of Scotland Commission on the War, its nature has been set forth in the paper on the "Decreasing Birth Rate" and in the valuable appendix to that paper, "The Misuse of Marriage." This appendix is a memorandum prepared in 1914 by a Committee of Anglican Bishops, which was approved by a large majority of the Diocesan Bishops.

The urgency of the problem has greatly increased since that time. In the House of Commons on February 11th, 1926, the Secretary for Home Affairs said he had received numerous complaints from members of the medical profession and others regarding the transmission through the post of descriptive and illustrated circulars advertising various kinds of contraceptives. . . . . The success of proceedings depended upon the "Magistrates being satisfied that the postal matter complained "of was in fact, indecent, and *he was afraid that the divided "state of opinion on the subject of birth control had been to some "extent reflected in the decision given.*" The House was not dealing with the subject itself but only with an aspect of it as it might affect public morals, but the answer reflects the state of public opinion on the matter, which is divided and in doubt, in view of the scientific and pseudo-scientific support which the practices referred to have received.

The only possible line of answer to this subversion of the married state (not to speak of the evils which are opened up for the unmarried) is to re-define (if that be needful, in the light of this threat), the Christian conception of marriage or what is to be the law of the Church against this misuse of a Christian Ordinance.

What has been done so far is that the Lambeth Conference of Bishops, representing world-wide Anglicanism, has con-

demned the practice and "called upon all Christian people to "discountenance the use of all artificial means of restriction as "demoralising to character and hostile to national welfare." Most of the Free Churches have supported this pronouncement. The writer of the article on the "Decreasing Birth-rate" [1] acknowledges that the teaching of the Roman Catholic Church "is clearer and more undeviating than that of other "churches." "The Roman Church refuses to limit the principle "that the end of marriage is the procreation of children. It "enforces its teaching regarding the sacredness of marriage, "and its sacramental value, by refusing the Sacraments to "those who will not obey." He goes on to say, "What the "Roman Church endeavours to achieve through the refusal of "absolution, the Protestant Church must achieve through de-"claring the full counsel of God. If Protestantism fails to "regain control over the morality of the people, then the "future of the race must lie with the Roman Catholic "Church."

That is surely a strong pronouncement in favour of the need of Church Discipline, for its object has ever been 'control over the morality of Christians.' If marriage is to be a Christian institution, its conditions and requirements must be such as will satisfy the Church. The Church of Rome, by regarding marriage as a sacrament, has kept the power of enforcing all the necessary conditions to its fulfilment largely in her own hands. If the State, according to its own confession, has no mind and no law on this matter, which may be fraught with so much consequence to her welfare, is the Protestant Church in any better situation? The Church can well claim that she has formulated the Christian law of marriage and secured its adoption by the State—with variations perhaps in details. If the Church sees herself to-day confronted with a propaganda which is subversive of the sacred institution of marriage, she may decide to save herself from this modern paganisation of

1 "Social Evil and Problems" (Church of Scotland Commission on the War.)

marriage and declare anew her doctrine and insist upon its acceptance by her members. It is difficult to see what the Church in her divided state can do in this matter. It certainly does seem a matter for her legislative and disciplinary authority, although an extraordinarily difficult and delicate one. If the whole Church—or the Church united upon this particular matter—declared unequivocally her mind upon this subject, it is conceivable that the State would take over the Christian law, as she has in the main done with regard to marriage and sexual offences.

It has been thought relevant to refer here to this modern problem confronting the Church in the light of the attitude of the Church and the State to the evil of abortion. It appears that on that evil and related ones the Church has always been the teacher of the State in the matter of law and disciplinary dealing, and that later the State has taken over the Church's law and administered it, the Church—especially the Reformed Church—seldom preserving her own jurisdiction in the matter. A time might come when over a question like this or over a larger question or questions—although such at the moment may not be on the horizon—all the Churches would be irreconcilably opposed to the attitude of secular government, and in that way might come the healing of divisions and the fusion of the many fragments into the one Holy Catholic Church.

From a consideration of what has preceded, one conclusion is that there is consequent upon the Reformation a very distinct limitation of the area of the Church's control over the morals of the people. Before the Reformation Christian law was largely administered by the Church, which in the first instance created and shaped it, and the Church's administration was often preferred to the secular administration. But at the Reformation a large part of the Church's jurisdiction was taken from her and thereafter administered by the State. This is really a secularisation of Christian law, although the secularisation may not be outright because the State is

avowedly Christian,[1] and the administration is in the hands of the Christian magistrate. But there is now no test for the "Christianity" of the magistrate, and such laws as the State might formulate with regard to such a problem as the one we have just considered would be uninfluenced by the Church as the Church except in so far as the Spiritual Lords of the Upper House, all Anglicans, might bring the mind of that part of the Church they represent to bear on them. But this experience of secularisation is not unique in the history of the Church Catholic or the Church in Scotland in particular.

Following upon the Reformation the Church lost a great part of her possessions or temporalities. "The respect for "property, and the protection of the Church's possessions "accorded by Roman Catholic rulers, did not long continue to "be shown by their Protestant successors."[2] This secularisation of the temporalities of the Church—a long process historically proved to be unjustified and without warrant of law—by the King and nobles, nearly all of them too of the Reforming party in the country, may explain the readiness also with which the State deprived the Church of its jurisdiction and handed it over to secular Commissaries. The Bishops' Courts had as one of the chief subjects of their jurisdiction the guardianship of Church lands, title to presentation to and possession of benefices, recovery of titles and Church dues, questions concerning fabrics and ornaments of churches and administration of pious gifts. Had the ecclesiastical jurisdiction of the Church been passed on without break to the Reformers, the opportunity for the secularisation of Church property would not have been so inviting.

The fact is patent that the secularisation of Church law and the despoliation of the Church's property went hand in hand; the one was the result of the other. There is no reason why, when the Reformed Church was so keen on the matter of

1 The establishment of the Church virtually means that the law of the Church is incorporated into that of the realm. 2 Andrew McGeorge: The Church and the Law, p. 51, in "The Church of Scotland," ed. Story.

education, she should not have been as keen on the matter of law, no reason why, when she desired to promote and keep education in her hands, she should not also have kept a tighter grip on the laws which she had been so largely instrumental in creating and formulating, but the secularising influences were at work and the alienation of her property could not be effected without first secularising her law. If Erastianism is the yielding up by the Church of powers which she believes are better wielded by the Civil Magistrate, i.e., all powers of discipline, correction and punishment, it was not so much Erastianism as secularisation, the assumption of ecclesiastical powers by the Civil Magistrate, that was at work in the time about 1560.

And the Church has lived to see also the secularising of her system of education, the Act of 1872 taking the management of the parish schools out of her hands. The Church had had a continuous tradition in her belief in education. We saw (p. 34) how a *ferleiginn*, a public lecturer or teacher, had been attached to the "bangors" or "colleges" of the Celtic Church, and how that office seems to have lingered on in the Roman Church, at Stirling, Perth, and Roxburgh. The Roman Church instigated Parliament, in 1496, to enact that barons and freeholders were to send sons of eight and nine years of age to schools till competent in Latin, and then to schools of Arts and Law, so that the poor will have lawyers without going to the King's Chief Council. And, at the same time, the Universities of St. Andrews, Aberdeen, and Glasgow were founded. Knox certainly lifted the ideal of education to a much higher level, but there is nevertheless evidence that the Church was never unsympathetic to education in Scotland, indeed that she was its inspiration.

The administration of charity and the relief of the poor also in last century passed out of the hands of the Church to the State.

Her system of registration of vital statistics begun under Statute (161) in the fourteenth century, and Statute (251) in 1552, continued by Acts of Assembly 1746 XII. and 1816 XII.

has also been taken over by the State.

It is quite easy to say that these things can be better organised and carried out by the State. The point is that they originated with the Church; the Church was the teacher of the State till the State learnt its lesson and then dismissed its teacher.

We give these instances to show how a continual process of secularisation seems to be going on, the State every now and again narrowing down the Church's sphere of influence. Thus the secularisation of Church discipline at the Reformation or the narrowing down of its control over the life of the people is not an altogether unique thing in the interaction of Church and State.

Indeed one might reason that in this respect the Church is living out the precepts of the Gospel. She lives by self-sacrifice. The Spirit gives her gifts which she develops, and she gives them to the world. She lives not to enrich herself but to enrich humanity, and doubtless to-day there is being born in the Church some new vision, some living institution perhaps which the world will again take from her, to bless her for the gift only when long ages have passed.

CHAPTER FIVE.

The Second Book of Discipline, 1578, and the Period 1578 to the Revolution Settlement, 1690.

THE *Second Book of Discipline*, containing the Heads and Conclusions of the Policy of the Kirk, was agreed upon in the General Assembly of 1578, was adopted by the Assembly of 1581, sworn to in the National Covenant, and ratified by the Assembly of 1638. According to it the Church Government was established by law in 1592 and in 1690. The Church Discipline it contains, therefore, is in every sense authoritative, and still is so except in so far as the forms of it are modified by later Acts of Assembly.

The period of its composition was a time when Books of Policy were being produced elsewhere. It was just about this time that the Puritan movement was coming into its strength in England, in the persons of Thomas Cartwright and Richard Baxter and others. Parliament was beginning to be leavened by Puritanism, and in 1584 the House of Commons was asked to adopt a Book of Discipline, drawn up by Cartwright and Walter Travers, which, if adopted, would have had the effect of abolishing Episcopacy and the *Book of Common Prayer* in England, and of putting in its place a Directory. This Book was largely founded on an earlier work by Travers, published in 1574 at La Rochelle, and the translation of it is generally attributed to Cartwright. The *Ecclesiasticæ Disciplinæ* was in all likelihood well known to the framers of the *Second Book of Discipline*, but in reality, in its looser conception of the Church and its officers, it bears a closer resemblance to the *First Book of Discipline*.

There is this in common between Travers's conception of

Church Government and that of Andrew Melville's, that both outlined a theocracy. Travers says (p. 177), "Forasmuch as "all things are ordered and governed by the authority of cer- "tain chosen men who are chief in the congregation in "Godliness and virtue we may call the government of the "Church aristocracy, *i.e.*, that government and state wherein "a few of the best do bear the rule, or rather Theocratic, that "is, the government of God seeing that they have no authority "but by the word and commandment of God." That is, he seems to imply the Commission to bind and loose is of God, yet he goes on to argue as if it were given not to the officers but to the whole people. "That the Elders who are chosen men, "chief in the congregation in godliness and virtue . . . should "join to their own authority, whether in great matters as in "choosing or ordaining ecclesiastical officers or in suspending "or excommunicating any man, *the consent and agreement of* "*all the people*, for we read it to have been thus done from the "Apostles' time until that discipline was corrupted."

This is distinctly reminiscent of the *First Book of Discipline*, which, as we saw, seemed to vest all disciplinary powers in the whole church or congregation. But yet Travers seems in the passages quoted to attribute a special authority to the Elders, and not merely that authority derived from the membership of the Church.

We have referred to this book because it comes in time between the *First Book of Discipline* and the *Second Book of Discipline*, and contains features of both, though in its theocratic character of the government of the Church it comes far short of the *Second Book of Discipline.*

We examined the *First Book of Discipline*, and the *Order of Excommunication and Public Repentance*, its working corollary in the matter of Church Discipline proper, and generally the origins of the Reformed Discipline in Scotland. Having considered that, in the chapter immediately preceding this we considered the effect of the Reformation upon the Discipline of the Church and saw how its subject-matter was restricted by the

action of the State, although doubtless in its dealings with the individual in the Sacrament of Penance the whole field of religion and morality still continued to come within the purview of the Roman Church.

Now we have returned to trace the subsequent development of Church Discipline within the Church of Scotland. We need not recapitulate the conclusion we came to as regards Church Discipline as set forth in the earliest Reformation standards, except to say that Discipline seemed to be vested in the whole Church or Congregation. The Ministers of that Discipline were sometimes the Ministers, and sometimes, apparently, the Elders, for they had the power of supervising the Minister, and with the Superintendent and the whole Kirk they could depose him. Later by the *Form of Process* (Ch. 1, 7), the Minister is declared to be not liable to sessional censure but only to that of superior judicatories. It was the Minister, however, who seemed to have the only right of pronouncing the sentence of excommunication or the absolution. In the *Register of the Kirk Session of St. Andrews* we saw this earliest Reformed Discipline at work. It was inclined to remit cases, apparently purely ecclesiastical, to the Civil Magistrate. Indeed the relation to the Civil Magistrate was very vague.

At this point mention must be made of one of the Continental Disciplines that exercised much influence upon Scottish Church Discipline, viz., the *Discipline or Book of Order of the Reformed Churches of France.* This work was drawn up by a Synod in Paris in 1559. The likelihood is that Knox and the Scottish Reformers of 1560 who drew up the *First Book of Discipline* were familiar with it, but conditions and circumstances in Scotland were so peculiar that they required peculiar treatment, and Knox, whose supreme influence is obvious in its composition, went to the fountain-head in Calvin and Geneva, and consequently we have in it the offices of Superintendent and Reader and certain other measures discarded by the *Second Book of Discipline.*

In the French Discipline we find practically the polity and discipline which Andrew Melville worked into the Scottish Book

of 1578. Ministers, Elders and Deacons are the three ranks of office-bearers in the Church, and the four courts are adumbrated in the Consistory, Colloquy, Provincial Synod and National Synod.

"Investigation and judgment of scandals belongs to the "Company of the Pastors and Elders, and exception must not "be taken to the findings of Consistory majorities" (Ch. V., Art. IX.). "Elders are warned not to report faults to the "Consistory without strong reason" (Ch. V., Art. XI.). A very notable provision, not followed in Scotland for a long time, is "The custom which has obtained in some places of "investigating and censuring faults publicly in the presence of "the people—men and women together—is condemned by the "Word of God; and churches are warned to abstain from it, "and in the passing of censure to rest content with the order "laid down in the Discipline" (Ch. V., Art. X.). Suspension from the Holy Communion is the main form of censure to be employed to bring transgressors to a spirit of humility, but except in cases where the offence is very public, this discipline is very merciful, and neither the offence, nor the suspension, nor the restoration is to be made public by the Consistory (cf. Ch. V., Art. XVI.). There is a privacy of dealing here not unlike that of the Confessional, except that the minister is the Consistory or Session.

There are thus points of difference from the *Second Book of Discipline*, but the similarities are great. This is borne out by the fact that Pardovan, perhaps the greatest authority on earlier Scottish standards, in his *Observations* continually refers to the parallelisms of our laws with the French Church Discipline.

We come now to the *Second Book of Discipline.* In what way is its discipline related to that set forth in the earlier book? Does it modify it or add to it? The subject matter of discipline remains pretty much the same. Ch. IX. of *First Book of Discipline* mentions the kind of sins for which the offender is to be called to answer, and Ch. VII. of the *Second*

Book the sins which deserve deposition in ministers, including that of teaching erroneous and corrupt doctrine, and all the common offences of the people.

Under this *Second Book*, who are the Ministers of Reconciliation? We may well call them that, for discipline often seems to imply punishment or penalty, certainly the purging of the Church of God, whereas its real aim is the restoration of the offender and his reconciliation to the Church. Discipline in the Church is always *pro animae salute;* in the State it is more often for the protection of the State. In the pre-Reformation Church, the Minister of Reconciliation in the Sacrament of Penance was the priest, and when the offender was tried before the Bishop's Court he was often sent to do public penance in some church. But the minister was always a priest.

According to the *First Book of Discipline*, the Ministry of Reconciliation seems to have been in the hands of the congregation, at least in all cases of public repentance (in the case of private sins, reconciliation was effected sometimes at the hands of one or two elders), for in the last resort it was the congregation who had to be "satisfied." According to their judgment in the matter, it then lay with the minister to pronounce the Absolution or the Excommunication. According to the *Second Book of Discipline*, the Ministry of Reconciliation is in the hands of the Kirk Session, with reference in aggravated cases to the Presbytery.[1]

The real difference between the *First Book of Discipline* and the *Second Book* is that the latter establishes a hierarchy of Courts. The Superintendent is abolished; the loose democratic view of the earlier standard is replaced by the conciliar system of the Kirk Session, Presbytery, Synod and General Assembly. The Presbytery at first was vaguely adumbrated but in germ it was already existent in the *First Book of Discipline* in the institution known as the weekly "Exercise," when groups of ministers and elders (the latter not to be allowed

1 *cf.* French Discipline, Ch. V. and VII., Art. II.

to speak) in a district much smaller than the ancient diocese met together for "prophesying," as the English Puritans called it. It was not unlike the modern "Study Circle," a meeting for prayer, reading and discussion of the Scripture, an excellent method for the training of preachers. In 1579, the year after the publication of the *Second Book of Discipline*, the General Assembly recognised this weekly meeting group as the Presbytery, and in 1581 the arrangement of Presbyteries was practically complete. The four-fold system of courts is implicit, if not fully explicit in the *Second Book of Discipline* and by the date of its ratification by the Assembly in 1581 the Church Court system as we know it was practically in working order.[1]

The *Second Book of Discipline* is the embodiment of the principles of Andrew Melville, viz., that the office of bishop is held by him who is minister to a congregation, and that he is to be superintended by the body of ministers, assisted by elders, of his own Presbytery; that the Synod has a superintending and reviewing power over all the Presbyteries within its bounds, and the General Assembly over all the Synods and the whole Church.

In the history of the development of Scottish Church Discipline an important stage is the status now given the Eldership by the *Second Book of Discipline.* The "bishop" may be the minister to a congregation, the overseer or pastor of a flock, but he is not given sole authority over it.

As in the *First Book of Discipline*, "elders" are associated with the Minister for purposes of "discipline." "The whole "policy of the Kirk consists in three things, in doctrine, dis-"cipline, distribution—And according to the pairtes of this "division, arises a threefold sort of office-bearers in the Kirk, "to wit, of ministers or preachers, elders or governors, and "deacons or distributors."[2]

The "elders" or governors, therefore, are for "discipline" —one of the "marks of the true Kirk," as in the *First Book of*

1 *cf.* French Church Discipline. 2 Second Book of Discipline, Ch. II., 2.

Discipline. The definition of the duties of their office is laid down in Ch. VI., 4. "Their office is as well severally, as con-"jointly, to watch diligently upon the flock committed to their "charge, both publicly and privately, that no corruption of "religion or manners enter therein." They have powers of private admonition, and, if they fail in their admonitions of offenders, they may bring them to the Session (VI., 8). "Their "principal office is to hold assemblies with the pastors, and "doctors who are also of their number, for establishing of good "order, and execution of Discipline. Unto the which assemblies "all persons are subject that remain within their bounds" (VI., 9).

The differences in the election and position of the Eldership as between that of the *First Book of Discipline* and the *Second Book* is as follows;—According to the *First Book* the election of elders is by the whole congregation. (*First Book of Discipline* X., 1). "If any man know others of better qualities "within the Kirk then these that be nominate, let them be put "in election (with them), that the Kirk may have the choice." "The election of elders and deacons ought to be made every "year once, . . . lest of long continuance of such officers, "men presume upon the liberty of the Kirk. It hurteth not "that one be received in office more years than one, so that "he be appointed yearly thereunto by common and free-"election" (X., 3). In all this we see democratic feeling in the Church asserting its right to the election of the elders or governors.

In the *Second Book of Discipline*, Ch. III. treats of "how "the Persons that bear Ecclesiastical functions are admitted to "their office." "The ordinary and outward calling," (besides which is needed the calling of God, and a good conscience) "has two parts, election and ordination. Election is the "choosing out of a person or persons most able to the office "that is vacant, by the judgment of the eldership and consent "of the Congregation, to whom the person or persons are being "appointed" (III., 4).

"No person is to be intruded in any of the offices of the

"Kirk, contrary to the will of the congregation to whom they "are appointed, or without the voice of the eldership" (III., 5). These directions for election seem to apply to all the offices, but in practice the sixth instruction, regarding fasting, earnest prayer and laying on of hands, is to be regarded as applying only to ministers, and in practice it has worked out that the election of elders has since this time been in the hands of the existing elders, who however give the congregation a chance of objecting to the names proposed. Absolute, democratic election has gone. The office is no longer for a year but for life. It is significant to note that this method of electing elders had been adopted by the *French Church Discipline* in 1559, and by this time it would be well known and would influence Scottish procedure. Ch. III., Art. I. of that order reads, "In places "where the Order of Discipline is not yet established, the "election both of elders and of deacons shall take place by the "common voice of people and pastors; but where the Discipline "is established, it shall fall to the Consistory along with the "pastors to make the most suitable choice, with very special "prayers, and the candidates shall be nominated aloud at the "said Consistory, and to those who have been elected the "charges shall be read to them in Consistory, so that they may "know how they are to be employed. If they consent, they "shall thereafter be nominated before the people for two or "three Sundays, so that the consent of the people shall be "obtained. If there be no objection raised on the third "Sunday, they shall be publicly received—standing before the "pulpit with solemn prayer; and they shall thus be ordained "to their duties after signing Confession of Faith and the "Ecclesiastical Discipline." Provision is made for opposition to be carried to the Synod. This is almost identical with the Scottish practice. The *Second Book of Discipline* goes on to say, "Elders once lawfully called to the office, and having gifts "of God meet to exercise the same, may not leave it again" (VI., 2). Later it came to be possible to resign the office, which is reasonable. But the election of elders has ever been

in the hands of the Kirk Session. Objection has sometimes been urged against this. The congregation has the choice of its minister. This was declared by the *First Book of Discipline*, although the Statute of 1567 reserved patronage to the ancient patrons. The *Second Book of Discipline* protests against lay patronage, although again in 1592 patronage was reserved for the Crown or other lay patrons, until finally the Act of 1874 gave patronage to the Church, and the congregation now elects its minister. But why not its elders? it is asked. The answer is that the congregation's choice of a minister is out of a trained and licensed class, and he is further "tried" by the Presbytery before he is ordained. In the Assembly of 1857 there was a motion to the effect "that the congregations of this "Church ought to exercise an elective voice in the choice of "elders;" it was rejected as "unconstitutional and inexpedient" by a majority of 155 to 131. The furthest that this "democra-"tising" policy has got is that an overture of 1841 was passed into law that the whole male communicants may recommend for elders, giving the names of half as many more as required. To-day should a Kirk Session desire to know whom the congregation would choose, it is not a breach of the law to take means to find this out.

With regard to this difference in the mode of electing elders, it is a policy which is significant. We have only the two policies to compare. The reasons for the change are not traceable now. But if the one head and chief governor is Jesus Christ, to regard all authority as coming from the people and give them the right of electing the governors and overseers of discipline in the Church is a contradiction in terms and in fact. Christ's authority was delegated to the Apostles, by whom it was delegated to those they trained and who succeeded them. Through the Apostles from Christ all ministry is derived. The ministry is Christ's greatest gift to the Church. "Ministry is thus not an ecclesiastical "expedient; it is a Divine Ordinance."[1] The Reformers

1 Wotherspoon and Kirkpatrick: A Manual of Church Doctrine, p. 143.

recognised that all ministry derived from Christ, and hence Presbyters ordain Presbyters. Elders have no part in this ordination. The rights that the Presbytery have in the examination of students, the licensing of probationers, the trial and ordination of Ministers have their counter part in the Kirk Session which has the right of judgment in the appointment and admission of elders. The doctrine of succession, which is distinctly recognised in the Church of Scotland standards as essential to constitute the lawful ministry or presbyterate, is thus in a manner also followed in the eldership. Though there is no ordination of elders by themselves in the way in which ministers are ordained, the body of elders appoint those who are to carry on the succession and who in turn will do the same.[1] Later the Act of Assembly 1698, VI., 3, declared, "The Church of Scotland "allows no power in the people, but only in the Pastors of the "Church to appoint or ordain Church Officers." That doubtless means that only ministers "orderly associated" can ordain ministers, but it can quite well legitimately carry also that in the Kirk Session only the Minister and Elders "orderly associated" can appoint and admit elders. Thus the authority to bind and loose in the hands of minister and elders (although the office of the eldership is not an Ordinance but the institution of an office for members of the Church with gifts for government) is implicitly an authority coming down to them from Christ. This then is the composition and character of the Court that, under the *Second Book of Discipline*, became supervisors of the morals of the people, "gatherers of the fruit of the Word" preached by the Minister.

Every Assembly has power to send forth of their own number one or more visitors to inquire how all things are ruled in the bounds of their jurisdiction (*Second Book*, VII., 5). Kirk Sessions in their zeal did this, and the Act of Assembly 1646, Sess. 38 further carries this provision into

1 Act 1642, Sess. 5.

effect. "Let every elder have bounds assigned to him, that "he may visit the same every month at least and report what "scandals and abuses therein—also for keeping Sabbath."

This was the method of election and the character of the Court, called the Kirk Session, consisting of the Minister of the parish and elders so associated with him, which was the Ministry of Discipline, instituted by the *Second Book of Discipline* and which has so remained till our day. The discipline of Church members in every parish has been in the hands of the Kirk Session. The Ministry of Discipline or Reconciliation has not changed, though the Discipline administered by them has diminished greatly in character and extent, and unauthorisedly it is falling into the Minister's hands. While treating of this matter, let us consider how the powers of this ministry were qualified in some respects, and how they were affected, if at all, by subsequent legislation.

In the first place the Minister (Presbyter) was not in any way subject to this court. In matters of worship, the administration of the Word and of the Sacraments, by Ch. IV., 7, he is given full authority; and he is not responsible to the Kirk Session but to the higher Court of the Presbytery. That has continued so till the present time.

As we have remarked, the *Second Book of Discipline* is vague upon the composition of the Presbytery as a court of the Church[1] but Ch. VII., sections X. to XVII., seem to imply that it is the Presbytery (groups of particular Kirks) which is to discipline ministers, and which has the power to depose them and also to excommunicate all obstinate members. Both of these limitations of the powers of Sessions were confirmed by later Acts, and particularly by the *Form of Process* (1707) (Ch. VII. and Ch. VIII).

The Kirk Session is given power to deal with all transgressors within their bounds. As we shall see, when we come to the Form of Process of 1707 (Ch. VI.), there are sins which

1 In 1581 the system of Presbyteries, that is, groups of 20 to 30 parishes, came into more or less complete working order.

by reason of their grossness and the scandal attaching to them have to be referred by the Session to the Presbytery, "such as "scandals of incest, adultery, trilapse in fornication, murder, "atheism, idolatry, witchcraft, charming, and heresy and error, "vented and made public by any in the Congregation, schism "and separation from the public ordinances, processes in order "to the highest censures of the Church, and continued con- "tumacy." The sins so specified and thus differentiated from those with which the Kirk Session may immediately deal, remind us of the classification of sins into the mortal and venial varieties of the Roman Church.

Appeals from this Court to the higher Court were allowed by the *Second Book of Discipline* (VII. 20). The *Confession of Faith* (approved by the General Assembly of 1647 and ratified by Parliament in 1649 and 1690) and the *Form of Church Government*, approved in 1645, in no way affect the character of the Eldership or the Courts of the Church as the Ministers of the Church's discipline. There can be little doubt that it was this system of Courts which was and is the strength of Presbyterianism in Scotland, and the explanation of the rigour of its discipline for at least two centuries. We have considered the composition of the lowest Court, the Kirk Session, and seen how, though the election of its members was not "popularly" democratic, the element of the *successio* being preserved both in the ordination of the minister and to some extent in the election and admission of the lay elders, yet the Session was chosen from the membership of the Church in each parish, and representatives of the eldership of the Church were then appointed to all the higher Courts. Thus the conciliar system of the Church was representative throughout, in marked contrast with the unrepresentative nature of the Scottish Parliament which existed at this time and indeed till the Union of 1707. Indeed it may justly be argued that the jurisdiction which the Reformed Church claimed was exercised with so much strictness because of the State's weakness through the unrepresentative character of her Parliament. The nation

was really the Church. This result was effected by Presbyterianism. Episcopacy was not indifferent to the interests of the people in the Church, but Presbyterianism invited the people to have a real part in the management of the Church's affairs, and in her discipline.

It was along the lines of the ancient ecclesiastical jurisdiction, questions of religion and morality, education and marriage that the Church Courts, and the Session in particular, exercised their functions. In the seventeenth and eighteenth centuries these matters were really the only "business" before the Courts. Financial and statistical reports are modern affairs. Discipline, as old minutes testify, was really the "business" of the Church for two centuries, except for questions affecting patrimony or benefice and the relief of the poor. We may look back now and think the methods crude and harsh, but there can be little doubt that it formed public opinion on matters of conduct and public morality and social well-being, and taught the people to give consideration to such matters. It taught people to discipline themselves, and the decay of much of this discipline in the eighteenth and nineteenth centuries is, we believe, traceable to the rise of democratic government in the secular sphere and the taking over by secular agencies of much of the control formerly exercised by the Church over the life of the people.

At the beginning of the seventeenth century this discipline as set forth in the *First Book of Discipline*, the *Order of Excommunication and Public Repentance*, and the *Second Book of Discipline*, became the Discipline of the Church and in theory has remained so to this day in spite of temporary changes in the Constitution.

The Ministry of this Discipline has been once or twice changed, but it would appear that the Discipline itself has gone on unaltered. There was the period of the "First Episcopacy" (1610-1638). The discipline of that period has been alleged to be less rigid than in the time of the succeeding "Second Reformation," but we have found no proof of this. The Epis-

copacy which James introduced left untouched the two lowest Courts of the Church at least, the Kirk Session and the Presbytery. Though during this period Bishops were restored and the Synods became Diocesan Synods and the power of the General Assembly was much curtailed by the transference of its power to the Bishops, yet the continuance of the local Presbyterian Courts made the maintenance of the Presbyterian Church Discipline possible, and neither its character nor the character of its ministry was in any wise changed by this Episcopal interregnum. For example, the *Presbytery Book of Strathbogie* which preserves records of that Presbytery from 1631 to 1654 shows that during part of the period of the "First Episcopacy" Kirk Session and Presbytery were exercising Church Discipline on the lines of the *First Book of Discipline* without any break of continuity.

A Book of Canons thrust on the Church by Royal authority in 1636, without consultation with the Assembly and without the sanction of the Parliament, was declared by the Assembly of 1638 to be null and of no effect. Had this Code of Canons been in any way preserved as part of the constitution of the Church of Scotland it would have affected the Church Discipline of our early standards, for it did away with the Kirk Session and the Presbytery, really envisaging a church governed by Bishops, and thus would have swept away the Ministry of Discipline as established by the standards of 1560 and 1578. It would thus have effected a great change even if the subject matter of Church Discipline had remained unaltered. It has been noted that this code of 1636, along with other codes, formed the basis of the Scottish Episcopal Code drawn up first in 1743 and more fully in 1811, which though frequently revised since then, took its last shape in 1911 and is the present Canon Law of that Church, determining its discipline and other parts of ecclesiastical polity.

It was the Assembly of 1638 which thus saved the Presbyterian Constitution of the Church, and preserved the form of discipline and its Ministry according to the Presbyterian

standards of 1560, 1569 and 1578.

As a type of the nature of the Discipline which this Assembly of 1638 exercised, at its session on the 20th December, "it inhibiteth all printers within this church to "print any act of this or preceding Assemblies, any "Confession of Faith, any debates about present divisions, "or any treatise whatsoever, which may concern the Church "of Scotland, without warrant from the Clerk of the Assembly, "or to reprint the same by any other not appointed by him; "and that under pain of ecclesiastical censure." There is a parallel inhibition in the French Church Discipline of 1559. Further in the same direction, by Act of Assembly, 1707, VII., Presbyteries are "appointed to take special notice of "any book or pamphlet which has for its author or publisher "any minister of this Church, and examine if there be any-"thing therein contrary to her doctrine, worship, discipline or "government, and that they censure such as shall transgress "herein according to the demerit of the cause." A parallel to this is also found in Ch. XIV., Art. XVI. of the French Church Discipline. It is worth remarking, however, that in 1638 and as late as 1707, the Church of Scotland should have something in the nature of an Index, and that now the control the church once exercised over the writings of her ministers and members is all gone. The present practice in this respect seems to amount to this, that liberty of opinion in matters of doctrinal belief is never questioned so long as there is evidence of devotion to Christ and His Church. But against this modern attitude of toleration may well be urged the question—is "devotion to Christ" consistent with the most heterodox view of His personality?

As has been already observed (p. 120) the *Form of Church Government* (1645) and the *Westminster Confession of Faith* (approved by the General Assembly of 1647 and ratified by Parliament in 1649 and 1690) in no way affected the character of the Discipline of the Church or its Ministers. Its Chapter (XXX.) "Of Church Censures" is brief. It reasserts the

government of the Church in the hands of Church-officers, distinct from the Civil Magistrate. To these "the Keys of the "Kingdom of Heaven are committed, by virtue whereof they "have power respectively to retain and remit sins, to shut that "Kingdom against the impenitent both by the word and cen-"sures, and to open it unto penitent sinners, by the ministry of "the gospel, and by absolution, from censures, as occasion shall "require."[1] That is as high doctrine of penance as can be found anywhere in the Church. Section III. of this Ch. XXX. puts as the first purpose of Church censures "the reclaiming and "gaining of offending brethren." That is alike the main purpose of Church Discipline and of ancient and modern Penance. It is the Ministry of Reconciliation, and no objection can rightly be taken to any censures which are instrumental in reconciling sinners to God and the Church. Also the purpose is stated "to deter others from like offences;" "for purging out of that "leaven which might infect the whole lump, for vindicating the "honour of Christ, and the holy profession of the Gospel and "for preventing the wrath of God falling justly on the Church." These aims have all been stated in the earlier standards. Section IV. is important. "For the better attaining of these ends, the "officers of the Church are to proceed by admonition, suspension "from the Sacrament of the Lord's Supper for a season, and by "excommunication from the Church, according to the nature of "the crime and the demerit of the person."

This is important as it defines the graduated censures or penalties office-bearers are to use—admonition, suspension from the Lord's Table or the lesser excommunication, and excommunication, called the greater excommunication because of its contrast with mere suspension, which might be for a period or even *sine die*. It is to be noted that this gives no warrant for arbitrary forms of punishment, appearances in sackcloth, fines, pillory, etc., but only for rebuke or exclusion, temporary or permanent (except upon penitence), from the privileges of the Church. This is therefore an advance in spirituality, although,

1 Confession of Faith, Ch. XXX., II.

as we shall see later upon more detailed examination, the crude and physical forms of penalty, sometimes accompanied by civil disabilities, continued long after the ratification of the *Westminster Confession of Faith.*

Sometimes, of course, these things to which we refer were not so much punishments (although there are instances of absolution given, and a penalty exacted) as trials of the genuineness of the professing penitent's contrition. *The Confession of Faith* was approved by the General Assembly in 1647, and in 1648 (Sess. 38) we find "remedies propounded "by the Assembly for the grievous and common sins of the "land." These are too long to include here. They advocate a stricter use of Church censures. Among the "Ecclesiastical "Remedies against Prophanesse" there is this :—5. "Let those "who have fallen in fornication make public profession of "repentance three several Sabbaths ; who is guilty of relapse "in fornication, six Sabbaths ; who is guilty of trelapse in "fornication, or hath once fallen in adultery, twenty-six "Sabbaths ; and these sins to be confessed both in one habite, "viz., in sackcloth ; quadrelapse in fornication and relapse in "adultery, three-quarters of a year ; incest or murder, a year, "or fifty-two Sabbaths, in case the magistrate do not his duty "in punishing such crimes capitally. They that fall in fornica- "tion or relapses therein are first to confess their sin before the "Session, and thereafter before the congregation ; they that are "guilty of greater degrees of that sin, and of the other sins "mentioned in this article, are to confess their sin both before "the Session and the Presbytery, and there to show some signs "of repentance before they be brought to the congregation."

Here is a casuistical system almost as rigid as that of the modern Roman Church founded upon Liguori's "*Theologia "Moralis* (1756). We find it at work for about a hundred years after this in the records of Kirk Sessions and Presbyteries, although it was greatly modified and altered by the *Form of Process*, 1707 XI. But though the Westminster standard of discipline had been approved, and these recommendations

of 1648 against particular cases became the rule, all through this time, i.e., 1631 to 1654, the discipline of the Church as we see it at work in the *Register Book of the Presbytery of Strathbogie*, is really carried out according to the Forms laid down in the *Order of Excommunication and Public Repentance* of 1567 and according to the spirit of the *First Book of Discipline*, to the forms of which reference is made. And indeed from this time, i.e., 1653, to 1690 there was no meeting of the General Assembly, so that there was no alteration in the law of the Church with regard to Discipline, and what law was being administered in the Kirk Sessions and Presbyteries (for the "Second Episcopacy" was in being) was according to the well-known forms of the *First Book of Discipline* and the *Order of Excommunication and Public Repentance.*

The Revolution Settlement of 1690 re-established Presbyterianism as the national religion of Scotland. The standards thus restored were those of 1592, that is, of the *Second Book of Discipline*, which did not set aside the process of discipline contained in the *Order of Excommunication and of Public Repentance* of 1567. The *Westminster Confession of Faith* was also, of course, recognised by Parliament at this time, but, as we have just seen, its section on Church Censures did not really add to or modify the discipline of the Church to any extent.

CHAPTER SIX.

The Discipline of Ministers and Office-Bearers and the System of Privy Censures during the Period 1578-1690; and continued to the Present Time.

THIS system has, though now only a remnant of its former self, existed from the very beginning of the Reformed Church in Scotland (and was not even then original) to the present time. Its origin in the Reformed Church can be traced in the *First Book of Discipline*, Ch. X., Section 5 :—

"Seniors (elders) ought to take heed to the life, manners, "diligence and study of their ministers. If he be worthy of "admonition, they must admonish him; of correction, they "must correct him, and if he be worthy of deposition, they "with consent of the Kirk and superintendent may depose "him . . . ."

Section 6 contains notable crimes, including heresy, for which a minister may be deposed.

Section 8 is noteworthy. "Every inferior Kirk shall by "one of their seniors and one of their deacons, once in the "year, notify unto the ministers of the Superintendent's Kirk, "the life, manner, study and diligence of their ministers, to "the end the discretion of some may correct the levity of "others." That means that an annual report on the Minister's life and work had to be made to the superintendent by an elder and a deacon. Ministers' wives, families and children had also to come under the censure of the Church.

Elders and deacons came under the same censure, and were to be admonished by the Minister where need was. The system thus instituted was one of mutual rebukes all round, based on the recognition that they were "judges over the "manners of others and their own conversation ought to be "irreprehensible."

By the end of the sixteenth century the system was in working order. Nothing definitely is said of it in the *Second Book of Discipline*, but Ch. VII., 7, of that work reads "For "this orders cause (gude ordor in the Kirk), they (the Kirk "Session) may make certain rules and constitutions apper- "taining to the gude behaviour of all the members of the "Kirk in their vocation."

In 1596, we read in the Minutes of St. Andrew's Kirk Session that individual elders were desired by their brethren "to be mair diligent and careful over the manners of the "people." It was an official censure.

There is further early evidence of the working of Privy Censures in the *Book of the Universal Kirke* in a record of the Assembly of 1602. A form for the visitation of Kirks is drawn up by the Assembly and ordained to be universally observed in all time coming in all visitations within this realm. Commissioners were sent down to carry out these visitations. "Every pastor was to be tried in his graces and "habilitie to discharge his calling; in his furniture of books "and necessary helps that may enable him in his calling. For "this effect, inquire first of the commissioners of his congrega- "tion what testimony he has of his own session and remanent "of his flock," and the questions that follow are about his teaching and pastoral work.

It looks as if these "Commissioners of Congregations" were the representative elders at the Presbytery, but at any rate they are asked about the opinion the Session have of their Minister.

The Minister is then removed, and his brethren of the Presbytery one by one have to declare on their conscience what they know of him, good and bad.

The Minister has to be tried next concerning his congregation, and there is also a trial of the Presbytery in like manner to see how every minister comports himself in relation to the determinations of the brethren.

In the 10th Session of the General Assembly of 1646 there is given a list of the Enormities and Corruptions observed to be

in the Ministry, with the Remedies thereof. The second remedy given is :—"Whereas it is known, that private tryall in Presby-"teries are for the most part perfunctorious, the brethren are "hereby exhorted to be more serious and faithful herein, as they "will be answerable to Christ, the Chief Shepherd, and in a way "previous thereto, that brethren be free in loving admonition one "of another secretly, from time to time; and that whosoever "keeps not the Presbytery or Synod, after grave admonitions "may come under further censures." The third remedy mentioned is :—"That accuracy be used at visitation of Kirks, "and that the elders, one by one (the rest being removed) be "called in, and examined upon oath, upon the Minister's "behaviour in his calling and conversation."

This system of acting upon the reports of elders on ministers is thus thoroughly established, and in the *Presbytery Book of Strathbogie* (1631-1654) we get a great many examples of this method of supervision at work. For example, in 1651 we read of the Presbytery's visitation of the parish of Botarie. The Minister is removed, and then the elders, one by one (the others being removed), are questioned as to what they know concerning the Minister, his doctrine, life, conversation and duty. And so all the elders are examined. The Minister is then called and encouraged or censured according to the nature of the evidence led.

The Minister gets his turn, for he has to report on the dutifulness or remissness of his Elders. In this case he reports they are "slow to give in delations."

In Strathbogie Presbytery this method of supervision, according to the record, seems to have been kept with great regularity and precision, the schoolmaster, the beadle, and the heads of families all being disciplined in the same fashion at these parochial visitations.

It is thus seen that Privy Censures are a serious attempt to discover sin or remissness of duty in the Minister or other office-bearers. The Statutes laid down that the priest in the confessional was to be careful not to suggest sins to the mind

of the penitent which he had not conceived. If we look at the many queries put to elders regarding ministers[1] they seem so designed as if to suggest so many sins or derelictions of duty that they must find the Minister guilty of one or other of them. There must have been a long list of queries for use on such occasions, as no moderator extempore could think of all these faults. Pardovan, Book I., Tit. XIII., 6, is very interesting, "The questions to be inquired by a Presbytery at "the eldership concerning a minister may be these, and such "like"—and here follow two pages of questions dealing with every aspect of the Minister's life and work, public and private, to pass in all of which successfully should have qualified him for canonisation among the saints. The system was an encouragement to men to show up one another's faults.

If the compulsory confession of the Roman Church was condemned, there was something even worse in this compulsory witnessing to the faults of others. In fact it discouraged confession on the part of an offender. And surely of all ways to solve difficulties of discipline in the Church or out of it, the easiest is to encourage the frank and humble avowal of fault on the part of the offender. Confession disarms the offended. It makes forgiveness easy. This system of Privy Censures has really had a long history in the Church. In the time of Charlemagne the old episcopal Synodal Courts, formed since the seventh century, which had their origin in the visitation of churches, became institutions for the disciplinary education of clergy and people. The Bishop or rather the Archdeacon, his official for this purpose, annually travelled over the diocese accompanied by a representative of the Emperor. Seven irreproachable judges were appointed in each community visited. After the clergy were "visited" by the Bishop or Archdeacon there followed an inquisition of the laity, the investigation extending not only to ecclesiastical transgressions, but to embrace all gross sins hurtful of the social life of the community, sexual sins, murder, homicide, robbery and theft. Penance was

1 See pp. 190-193, 207-209, Presbytery Book of Strathbogie.

imposed which consisted often of fasts or abstinences, for graver sins scourging, imprisonment or excommunication, and alongside the ecclesiastical went often secular punishments.[1] In all of which matters it is not difficult to find a parallel in the Scottish Church of the period we are considering. By Act. XVII. of 1694 Presbyteries are enjoined to set up the practice of privy censures "conform to the ancient practice of this Church." This no doubt implies that during the long abeyance of the Assembly and the virtual episcopal ascendancy during the "Second Episcopacy," the system of privy censures had largely been allowed to lapse.

We come at this point to the end of the period we have been dealing with, from 1578 to the Revolution Settlement of 1690, but for completeness we may carry on our treatment of this particular part of Church Discipline into the following period, and down to the point where it stands to-day.

The *Form of Process* adopted in 1707, lays it down in Ch. I., 7.—"The Minister of the Word, being in office above "that of the ruling elder, cannot be liable to the censure of the "Kirk Session, but to the superior judicatories of the Church."

This can only be directed against the *First Book of Discipline* which as we have just seen gave the elders some power of censure of their ministers, and which we also considered at an earlier stage of this study.

It should be noted that, though the Acts ordering Privy Censures enjoined elders to bear witness regarding their Minister, the power of censure was not theirs but the Presbytery's.[2] Moreover, Act 1700, XXII., recommends diligent visitation of parishes, and Act 1706, XVI., sets forth that Presbyteries are required to hold frequent visitation of parishes, and we find in 1723 in the records of the Presbytery of Ayr the following:—"In order to comply with the act of "last Synod as to sessions' observing a day for prayer and

1 Moeller, Vol. II., p. 114 et seq. 2 "Moreover Ministers under went their privy censures in the Presbytery and had not to undergo them before the Session"—Pardovan, I., XI., 6.

"privy censures, the Ministers of Ayr are to draw up a for-
"mula of questions to be put to members of sessions." These questions include—"Do you inform yourself of the conversation "of your division, particularly whether they have family worship "and attend ordinances? Do you give account of what scandals "fall out which deserve public censure? Do ye deal with their "consciences who are guilty of such escapes as do not deserve "to be represented to the Session?" They were also to see that "persons flitting from one paroch to another had sufficient "testimonials." This system of transference certificates was begun by the Assembly of 1648, and though now but a formal evidence of Church membership was then a certificate of character, without which no decent person could move to another parish and retain his good name.

Little or no trace can be found after this time of such disciplinary inquisition of elders, and the frequent exhortations of Assembly, at the beginning of the eighteenth century, to Presbyteries to be diligent in visitation of parishes are an indication that this particular form of surveillance was coming to an end. How long these queries were submitted to elders we have not been able to trace, but they were apparently not universal and the Presbytery of Ayr alone perhaps formulated such queries.[1] No doubt the questions put to elders in the Presbytery regarding their minister also ceased about the time that this sessional discipline of elders and their work fell into desuetude, somewhere in the first half of the eighteenth century, when Church Discipline in Scotland generally, as we shall see, was beginning to decay from its pristine rigour. In the overtures dealing with Church Discipline and forms of procedure, long under discussion by the Church, first printed in 1696 and then in 1705, there is a section dealing with Privy Censures in the Sessions, but as these overtures never became an Act, except so much of them as was incorporated in the *Form of Process* of 1707, the section dealing with Privy

1 Pardovan, I., XIII., 7 contains a list of questions to be put to ministers concerning their elders.

Censures in Sessions fell into abeyance, and never became part of the law of the Church.

Dr. Hill, writing in 1840 says, that the practice of frequent visitations of parishes and privy censures has fallen into desuetude as a general measure; and attempts are being made to revive it. But he questions the necessity and expediency of such a revival, giving as reasons against it "the publicity "that is given to all that occurs, and the intelligence that is "rapidly transmitted through every district of the country." This is really to substitute for official supervision the criticism of outside public opinion; to a certain extent that substitution has been made inevitably, but it is not for the Church to acquiesce in the abrogation of her power of self-government by outside agency.

Dr. Hill says with more truth that "it is always a difficult "and a delicate matter to inquire into a minister's personal or "official conduct, and the disapprobation expressed by the "Assembly of 1796 of the manner in which a presbyterial "visitation for this purpose was managed, will make Presbyteries "cautious how they proceed in the business."[1]

Soon after these words were written the first step in the modern method of discharging the Presbytery's duty of supervision was taken. By Act of Assembly 1848, XVI., Presbyteries were "enjoined annually to obtain answers from "the different ministers within their bounds to a prescribed list "of queries and to record them in their minutes and to transmit "a copy to the Synod." The object of this instruction to Presbyteries was to obtain some of that necessary information about the parishes and the work of the ministers in them which of old had been obtained by Presbyterial visitations. The need for superintendence was being recognised. But there is practically no mention in Church records in subsequent years of the working of this Act 1848, XVI., and Dr. Cook (*Styles of Writs, in the Church Courts of Scotland*) writing in 1869, says that this instruction to Presbyteries "is rarely acted on, the infor-

1 Assembly 1796, Sess. 5. Gillanders. Synod of Angus and Mearns.

"mation it contemplates being easily accessible or otherwise "obtained, by returns to presbyteries and Synods respecting "Sabbath Schools and collections for the Schemes."

So that in the middle of last century (at the time perhaps when the Church was recovering from the blow she received at the Disruption) there was no serious attempt at Presbyterial superintendence in the Church of Scotland. This matter was gone into at some length by the General Assembly, and a Report was adopted in 1897, which among other recommendations contained one that Presbyteries were enjoined to carry out visitation of parishes by Committees.

The present law dates from 1890, XI., and the queries that are annually submitted to Ministers for their answers are those of 1908 X., with certain modifications that have since been made from time to time as circumstances rendered necessary. These are well known and nothing further need be said about them here than that they concern the organisation of ministerial work in the parish, that they are more or less of a statistical nature, that they may be answered more or less to the satisfaction of a Presbytery, and frequently may reveal no grounds for proceeding to the discipline or censure of a minister, while all the time that may be necessary. There may even be a *fama* and the Schedule would not necessarily disclose its existence.

Conclusion.

This Superintending function of the Presbytery meant, according to the old Acts, visitation of the parishes, inspection of the work done, with the power of commendation or censure as deemed necessary; this discipline was not only of the Minister but extended downwards to the Elders, to the deacons where these existed, and even to the heads of families and the whole congregation. All that has long since disappeared, except that there remains the attenuated discipline of the Minister by the annual Presbyterial Superintendence Schedules.

The Discipline of Ministers

Reform is needed, and as a result of an overture from the Presbytery of Perth to the Assembly of 1924, a report on the whole subject of Presbyterial Superintendence was presented to the Assembly of 1925, by the Committee on the Church and Nation, and the subject is still engaging the attention of that Committee. After a very inadequate historical résumé of the subject, several suggestions put forward by members of the Committee are given. It should be remembered, however, as is not done in the suggestions put forward, that Presbyterial Superintendence involves visitation of parishes, *i.e.*, to inquire into the state of *the Christian life of the whole people*—now limited to the congregation by reason of our unhappy divisions. Certainly not only the life and work of the Minister, but that also of the office-bearers and the whole congregation should come under the review of their ecclesiastical superiors. Some means should therefore be found of bringing home to Elders their responsibilities, especially as in one of the suggestions put forward a claim is made for laymen to be on the Advisory Council which it is proposed would aid Moderators of Synod in a system of Synodal Superintendence.[1] In any case, as things at present stand, the representative elders usually absent themselves from the Presbytery when the Superintendence Schedules are under consideration. It may be they regard this form of discipline as one-sided, and that they cannot be judges of ministers when their own work does not come under review.

From this lengthy study of the matter our conclusion is that from the days of the old synodal episcopal Courts, through the days of archdeacons' visitations, down till now, the basis of such visitation is a list of questions put either orally or submitted for written answers. There should still be questions issued with the approval of the Assembly, which might be supplemented in the Synods by such as are dictated by their local knowledge of peculiar needs and difficulties. And we think that, to cover the point we have mentioned, viz., the

1 General Assembly Reports, 1925, p. 709.

discipline of all office-bearers in the congregation, a schedule might be framed to be answered not by the elders individually—a too severe discipline for those giving only their spare time to this work—but by the Kirk Session as a Court. Some of the questions on the present schedule applicable only to ministers might even now be put to Sessions. But at any rate a few queries might be framed that would have the effect of bringing home to all office-bearers their joint responsibilities with the minister, in the work of the Church. And another Schedule, perhaps shorter and less statistical than the present one, should be framed pertinent to the ministers only and the peculiar responsibilities of their office.

As to the Ministry of this Discipline, on the principle that the Episcopal office is formed not so much "by elevation out of "the presbyterate" as "by restriction of other presbyters,"[1] presbyters might agree to forgo their rights of supervision of their brethren to the extent of conferring this duty upon the Moderator of the Synod, one of their number whose office for the time would be the equivalent of the Superintendent or Bishop. He, acting on the information supplied him by the Schedules, and advised by a Council in which each Presbytery would be represented, might visit parishes to encourage or warn or advise, according as there was need. Such office would only be for a period. It would be a devolving of the power of all the Presbyters and Elders within the Synod, which they possess acting in Presbyteries, upon the Moderator of the Synod. He would have their power and a greater power of initiative as an individual than a Committee or Court, under such safeguards as the Assembly might devise. The advantages of a Synod Superintendent would be that in most cases he would be further removed from local influences than members of a Presbytery often are when dealing with cases of discipline; procedure might be shortened; and in case of injustice done, the party alleging such would still have right of appeal to the General Assembly of the Church.

1 Wotherspoon and Kirkpatrick: A Manual of Church Doctrine, p. 162.

The Assembly would come with a more impartial mind to an appeal against such a Synodal Superintendent than to one made against the finding of a Commissioner or Superintendent appointed by themselves to carry out this disciplinary function in Synods. This particular aspect of Church discipline is still a live question in the Church, and it is conceivable that in a larger, united Church, it may well become more urgent. We have dealt with it here, following right down to the present time the history of Privy Censures and Presbyterial Visitations, and it will not be necessary to revert to this subject again in any general conclusions we may make.

We now return to the subject of Church Discipline in general at the point we left off to treat of this particular aspect, viz., 1690, the year of the Revolution Settlement.

CHAPTER SEVEN.

Church Discipline from the Revolution Settlement of 1690 to the Present Time.

FREED from its century-old struggle with Episcopacy, the Church was now free to attend to its own internal affairs, of which one of the most important is its discipline. The struggle with Episcopacy, however, was not really a struggle with a force outside itself, but the struggle of two contending parties within, the Episcopal party receiving in the Stuart epoch the royal support. In the history of the Church it is generally found that discipline becomes lax in times of persecution. A like thing might have happened in Scotland, had there been more persecution from without and less dissension within. The Ministry of the Church changed in character or in name from time to time, according as there were Bishops or there were not, but the lower courts of the Church, the Kirk Session and the Presbytery, continued to exist, though the latter was dependent upon the will of the Bishops. The discipline which they administered, however, was that of the old standards. Owing to the Covenanting struggle, the "Killing Times," and the fact that the General Assembly had not met for forty years, soon after the Revolution settlement there was much activity in the General Assembly over the question of Church Discipline.

Acts of Assembly "against Profaneness" become very common. Act 1697, XI., is of that nature. It gives great weight to the statutes of the nation against profaneness and to the necessity for their execution by the Civil Magistrate, and exhorts Presbyteries and Sessions to call upon the Civil Magistrate, if he is remiss, to put these Acts into execution. "And farther they do appoint that Presbyteries and Kirk

"Sessions do faithfully and impartially exercise Church "discipline against all such scandalous offenders, and use all "suitable means, in dealing with their consciences, to bring "them to unfeigned repentance and reformation; and they "zealously recommend to Ministers and Members of Kirk "Sessions, from a true zeal for God, to hold hand to *delating*, "informing against, and punishing of all profane transgressors, "without respect of persons, by civil punishments, conform to "the Acts of Parliament made in that behalf . . ." If they do not for any reason, they are to be delated. This is very largely an appeal by the Church to the secular arm to discipline offenders against Christian morality and ordinances, "scandals "of profane and idle swearing, cursing, Sabbath-breaking, "profane withdrawing from, and contempt of Gospel ordin- "ances, . . . hindering the planting of Churches, fornication, "adultery, drunkenness, excessive tippling, Deism, blasphemy, "and other gross abominable sins."

After the Revolution Settlement the Church could count upon the Civil Magistrate being well-disposed to her demands, and she was not slow to call upon his aid. By this means the Church could enforce her moral discipline on those who were citizens of the country but not necessarily within her communion. This is a real danger to the Church's own authority, and one which we shall refer to later. During the first twenty years after the Revolution Settlement the question of Church Discipline was almost ceaselessly before the General Assembly and the Presbyteries, and issued in the *Form of Process* of 1707, which from then till now, with very little change, has controlled disciplinary procedure in the Courts of the Church.

In 1696 there were printed *Overtures concerning the Discipline and method of Proceeding in Ecclesiastical Judicatories in the Church of Scotland*, "humbly tendered to the consideration of "the several Presbyteries and to be by them prepared for the "next, or some ensuing General Assembly." At the beginning of the print there is a note to the reader, which has historical interest. It gives a brief summary of the work of the

Reformation, and the outcome of it in the publication of the *Confession of Faith* of 1560, and the *Books of Discipline*, which determined the nature of the Courts of the Church. The work of the Reformation, it argues, was continued by the publication of the *Westminster Confession of Faith*, maintaining the orthodox Doctrine against not only Popery, but Socinianism, Arminianism and Erastianism. The *Catechisms* too and the *Directory for the Public Worship of God* are all claimed as products of the Reformation. "What put a stop to our Worthy Fathers going on, "in giving a compleat Directory of the Discipline of the Church, "and the methods to be used in Ecclesiastical Judicatories, in "their proceedings, some yet alive may remember." This refers to the long abeyance of the General Assembly and the period of the "Second Episcopacy." Then the writer states that the desire to carry on the same work of Reformation has resulted in the draft of *Overtures concerning Church Discipline and Method of Proceeding*. These are the Overtures which were before the Church for eleven years, which were printed in full in 1696, and in 1705, when they were considerably added to by chapters on the Synod and the General Assembly, and finally approved in 1707, in a very much shortened form, as the *Form of Process*.

In the longer forms of 1696 and 1705 these Overtures were really books of Discipline or Policy, of a very complete, orderly and explicit nature. They contain the whole polity of the Church, all regulations regarding Ministers, their ordination, transportability, etc., and the definition of the duties and powers of all the Courts. Their adoption in the form of 1705 would have given the Church a Third Book of Discipline, but for reasons which do not appear—(the General Assembly of 1704 said "albeit the printed overtures for Discipline be not so "succinct as need were")—the result of this prolonged discussion was the *Form of Process* of 1707. All the general polity of the Church in other matters, e.g. election of elders, ordination of ministers, Privy Censures, etc., etc., were cut out, and the subject matter was narrowed down to Church Discipline, in the narrow or proper sense in which we have been considering it,

its due and legal execution, the question of appeals, the greater excommunication and absolution, in short all the procedure connected with discipline.

It is curious that a later Act (1707, XVII.), of the same Assembly which passed the *Form of Process*, considers the Overtures of 1705 may be useful, and recommends them to be compared with the *Form of Process* as to what is yet wanting to give the Church "a complete system of rules in their proceedings in matters of discipline." This recommendation and appointment were renewed in 1710 and 1718, but nothing was done and the *Form of Process* continued to be the law. Various attempts were made to alter or amend the *Form of Process*. There was even a sketch of a new one in 1786. But with one or two slight alterations—e.g. Act 1745, IX., made Chapter VII. applicable also to probationers; and a technical point was modified by Act 1835, XI.—the *Form of Process* remained substantially unaltered till the Act of 1902, VIII., which legalised and regularised changes and modifications that by this time were becoming customary, and so prevented worse irregularities. Under this *Form of Process* a libel is the formal indictment by which a minister or probationer is charged with misconduct or heresy. The forms of procedure for trial by libel are now laid down in the later Acts of 1889, XIX., and 1910, XI.

The first thing we ask about the *Form of Process* is—what was the cause of its promotion? From the large overtures that led up to its adoption, everything else in the way of policy was dropped, and the result was this *Form of Process*, the only subject matter of which is Church Discipline and Censures and the mode of proceeding therein. There must, therefore, have been special need for this order. There had been no such order adopted by the Church since the *Order of Excommunication and Public Repentance* of 1569. It was still being used in Strathbogie and other Presbyteries in 1649. The *Westminster Confession* added nothing to the doctrine of discipline, and the original *Order* continued, although through the second

half of the seventeenth century the Church was so persecuted and beset with many trials that the standards and forms of discipline began to vary greatly, though the main principles remained the same. A form to be used by all judicatories and to standardise the discipline of the Church was provided by the *Form of Process* of 1707. This was probably necessary in justice to the Church itself, for we find about this time the same kind of sin visited by very different censures in different parts of the country. Kirk Sessions differed in their ideas of the "satisfaction" required. "At the time when adulterers in "North Ayrshire were appearing on the pillar for fifteen or "seventeen 'diets,' they were a few miles further south giving "satisfaction with about half that number of exhibitions." [1]

It is really no part of our business to go into the technical and legal part of procedure in cases of discipline. The whole process is clearly set forth in the *Form* itself, and the only exception since that time is the optional procedure allowed by Act 1902, VIII., and the obligation that all minutes of discipline are to be kept in a separate book.

A few observations on the *Form* itself may be allowed. It founds Church Discipline on the same warrants as the earlier standards. The Ministry of Discipline in the parish is in the hands of the minister and elders, i.e. the Session, and all the higher Courts of the Church may have to deal with cases of discipline, by way of appeal or because of contumacy. Certain aggravated and gross sins (VI., 1) have to be referred by the Session to the Presbytery, who may deal with the offenders directly or instruct the Session how to deal with them. Again, there is just a hint in this of the ancient distinction between venial and mortal sins.

Church members could come before the Courts in one of two ways—by voluntary confession or delation. Perhaps it is human nature not to confess one's sins to another; perhaps it is peculiarly Scottish human nature; or perhaps there lingered

1 Edgar: The Discipline of the Church, p. 530, of Story's "The Church of Scotland."

in the religious consciousness of the people a prejudice against anything that savoured of the Confessional; anyhow, nearly all the cases that came before the Courts came by way of delation. Some one would report—it was the duty of the elders particularly to do this in the Session—a scandal or a *fama*, and if it could be dealt with privately by admonition, so much the better. At all events, the Session had carefully to scrutinise whether a case should be entered upon at all, to avoid unnecessary scandal and for the greater good of all concerned.

Chapter II. mentions some of the sins that cause scandal—drunkenness, breach of the Lord's Day, disobedience to parents, swearing, cursing, scolding, fighting, lying, cheating, or stealing. These do not appear to be so serious as the sexual sins dealt with in the following chapter, and there are gradations of culpability even in these. A single commission of any of the sins named may deserve the lesser excommunication, but Sessions may admonish privately if they deem that sufficient. A minister or an elder may so admonish, and on a promise of amendment the matter may take end.

If the offender relapse, he should be called before the Session, and if found guilty rebuked; and on promise to amend, out of due sense of his sin, discipline may again sist there.

If he amend not after that, the censure may be the lesser excommunication, which is suspension from sealing ordinances till amendment is made. If he continue, while under this censure, to relapse in the vice for which he is censured, this contumacy may deserve the higher excommunication, which is to be inflicted or not, as may tend most to the reclaiming of the guilty person and the edification of the Church.

We have mentioned this gradation of censure, because it recalls the graded penance of the ancient Church, and because also there is a cut-and-dried system outlined in this chapter which is almost certain to break down when it is sought to apply it to the infinite variations of human personality and human sinfulness.

Chapter IV. deals with sexual offences, and the first para-

graph recognises the difficulty of dealing with such, "for it "falls frequently out that . . . all that can be proven is "but presumptions of guilt or scandalous behaviour . . . "this should oblige the Kirk Session to be very cautious how "to admit the public entering a process without a good war- "rant, where there is not a child in the case, unless the scandal "be very flagrant." As a matter of fact, it is the existence of a child which eventually became the evidence *sine qua non* in sins of this nature.

Chapter VII. lays the foundation for the present mode of libelling a minister either for misconduct or heterodoxy. Act 1889, XIX., simplifying the forms of libel and procedure in trials by libel, and Act 1910, XI., are for carrying out in proper form the discipline of erring Ministers by the Church. The sins for which they are censurable and the censures are laid down in the *Form of Process*. An Overture was received by the General Assembly in 1924 to the effect "Whereas there has been no "revision in the *Form of Process* since 1707 so far as relates to "Ministers, and whereas cases may arise where the disciplinary "measures therein provided are not entirely applicable as not "giving alternatives which might in some cases be more suit- "able . . . it is overtured to remit to a Committee to consider "procedure set forth in *Form of Process*, and to report to next "General Assembly." A Committee reported that the chief object of the Overture was to alter the existing law of the Church so that a Minister may, in the case of inefficiency, be deprived of his benefice without deposition. The Free Church in 1892 adopted this procedure, and it now exists in the United Free Church. The Committee recommended that nothing be done in the matter, not on the merits of the suggestion, but because the *Form of Process* is one of the documents referred to in the Declaratory Articles of 1921, and it would therefore have been inexpedient to revise it at that juncture. In the draft *Basis and Plan of Union*, drawn up by a Joint Committee of the Church of Scotland and the United Free Church of Scotland, there was a supplementary report on Discipline (1927), which

under the head of "Notes on Censures" contained this paragraph:—"In cases where the fault or delinquencies of one "holding office are not such as to warrant more than a temporary "suspension from office, but yet such as to militate fatally "against his continued usefulness in his present office, the Court "shall have the power of dissolving his relation to that office. "This step is not to be regarded as a Censure. Any Censure "required should be independent of such procedure." In the final *Basis and Plan* sent down by the General Assembly of 1928 to the Presbyteries under the Barrier Act, this paragraph has been omitted. Such "deprivation" has been judged to be a provision that would put an end to the tenure of office *ad vitam aut culpam*. Incidentally if this change were ever adopted, it would be a return to a form of censure (or *poena*) recognised by the Canon Law, which had these grades:—

(1) Suspension either from office or from office and benefice.

(2) Deprivation of office.

(3) Deposition—or degradation (a more solemn and ceremonial form).[1]

Chapter VIII. treats of the greater Excommunication, which has to be proceeded with, with great care, long suffering and tenderness even. Only the Presbytery can excommunicate. This was really laid down by the *Second Book of Discipline* and also by the Assembly in 1610 at which Episcopacy was set up, which declared "no sentence of excommunication could be "pronounced without the knowledge and approbation of the "Bishop." The Presbytery has episcopal powers. It is worth noting that while the people are warned that they hold no unnecessary converse with the excommunicate, "it dissolveth not "the bonds of civil or natural relations." This is a softening of attitude towards the excommunicate compared with that shown at the Reformation.

The Absolution is "from the sentence of excommunication, "and reception again into the Communion of the Church, and

1 Article in Encyclo. Britt. on "Ecclesiastical Jurisdiction."

"the free use of all the ordinances of Christ, that thou mayest be "partaker of all his benefits to thy eternal salvation."

It is somewhat difficult to assign a value to the *Form of Process* in the history of Church Discipline in Scotland and to say whether it was the effect of the indeterminate conditions of the previous half century or the cause of the incipient decline of discipline in the eighteenth century. Perhaps it was both.

Compared with the *Order of Excommunication* of 1567, it really added nothing to that order. This difference is noticeable, that, whereas the *First Book of Discipline* and the *Order of Excommunication* (1567) were vague as to the relative spheres of the Church and the Civil Magistrate, mainly through the greater clarity of the *Second Book of Discipline* in this matter, the *Form of Process* concerns itself only with the discipline of Church members by the Church, although amongst the sins mentioned to be so disciplined there are many that the Civil Magistrate must also deal with in his own sphere; and in one case (IV., 13) the Session is to apply to the Civil Magistrate against a slanderer, and in another (VIII., 18) the Civil Magistrate's aid is to be invited for suppressing heresies, schisms, errors and such offences. The sins, the greater and the lesser, are very much identical in either form.

The difference between the two, one feels, is in the spirit. The earlier *Order* is a form, it is true, but the Church is felt therein to be wrestling with the soul of man; the congregation is identified with the sinner; and the process is long dragged out in the hope that the sinner may be induced to repent and turn. Exhortations and prayers towards that end are all included in the process. The process, though it is orderly and definite, yet is full of the Christian spirit. In the *Form of Process* there is a distinct hardening. The legalistic procedure is emphasised. Both Forms, while prescribing the order of excommunication, proceed, with due tenderness to the lapsed brother, upon the same lines, but that is because of the great solemnity of this excision from the body of Christ. But otherwise, after the passage of 140 years, the *Form of Process* shows

no advance in the mode of the Church's spiritual dealing with her erring members, but rather an increase in externality.

We have already observed that the catalogues of sins mentioned in both Forms as censurable are practically identical. A comparison shows this. Yet if sin is to be taken as an inward motion of the heart and not an outward scandal, the earlier *Order* is probably more spiritual than the later. The earlier (e.g.) takes notice of "suspicion of avarice or of pride"; "these, we say, and such others, *that of the world are not* "*regarded*, deserve admonition among the members of Christ's "body." But the sins that are singled out by the *Form of Process* are all of an obviously scandalous nature, having external manifestations and effects, "drunkenness, Sabbath-"breaking, swearing, cursing, scolding, fighting, lying, cheating, "stealing, all the sexual offences, and heresy and error 'vented "'and made public by any in the Congregation.'" Thus it is only those sins which have outward and sometimes physical manifestations that are to be dealt with. Except that lust may come under the category of sexual offences, and anger under cursing and scolding, the others of the seven deadly sins, pride, covetousness, gluttony, envy and sloth, are not mentioned. And pride and covetousness are deadly sins, though they may have little external manifestation. As a matter of fact, courts (even courts of the Church) and legal processes are unequal to dealing with the inward motions of the human heart, where, according to our Lord, all sin has its origin. The *Form of Process* shows Church Discipline become more and more legalistic, outward and external, and the offender a "case" rather than a soul to be won back, if possible, to the fold of Christ.

There are "respectable" sins that somehow are beyond the power of delators or Kirk Sessions to bring home to men. We read much of breaking the Sabbath, but nothing of the contrary sin—spiritual pride in its rigid observance. Yet our Lord said that the Sabbath was made for man and not man for the Sabbath. There are many pharisaic sins that go

undelated before Kirk Sessions and Presbyteries. It is remarkable that the sins which our Lord condemned, the pharisaic sins, self-righteousness, pride, religiosity, are those which escape this kind of discipline, while the kind of offence, to one guilty of which He once said, "Go, and sin no more," receives in the *Form of Process* a very large proportion of notice.

A religion, that discouraged confession, and was seldom convicted by its own conscience, and rather encouraged the delation of others, which had indeed (largely through the disciplinary measures of the Act of 1648, which assigned bounds to each elder to visit monthly and to report to the Session) developed an ecclesiastical system of moral espionage, had itself either to disappear or shed that defect in its own nature. It was the latter alternative which was destined to be adopted. Let us now turn from the *Form of Process* itself, which regulated discipline theoretically, to Church Discipline in practice about this time, that is, at the end of the seventeenth and the beginning of the eighteenth century. There is no further legislative enactment of importance to affect discipline in any way till the Act of 1902, VIII, which allows an alternative to the process laid down by the *Form* of 1707. The effect of that we shall examine later.

Meanwhile we would examine the discipline of the Church of Scotland as it appears in practice. There are many terms in constant use in Kirk Session and Presbytery records, methods and styles used, from which it would seem we can deduce the principles at work almost as clearly as from the regulative standards themselves. Much has been written on this topic from what one might call the antiquarian point of view, describing Church and social life in the seventeenth, eighteenth, and nineteenth centuries.[1] Many curious customs and practices of Kirk Sessions and Presbyteries have thus come to light. A great store of material concerning human nature is buried in

1 *Vide* H. G. Graham: Social Life in Scotland in the XVIII. Century. Andrew Edgar, D.D.: Old Church Life in Scotland.

the records of the Church. There is some humour and much pathos behind the bald records of Presbytery and Session clerks. There is much that is unsavoury ; nowadays in a civil court much of it would be heard *in camera;* here it is committed to writing. Of these records indeed it is true, "The "evil that men do lives after them, the good is oft interred "with their bones." It is often argued against the Confessional that it is bad for the priest and corrupts him in time ; yet evil cannot entirely be left untouched—someone must deal with it. Much hideous spiritual evil to-day is left to the psycho-analyst or to the quack psychologist, or to the medical man skilled in mental pathology ; perhaps the priest or the minister, in the power of God, and with some special training, is as able to combat evil of this kind as any.

As we read those records we find ourselves wondering why these men and women of all ranks (for the Scottish Church was no respecter of persons) faced the dread humiliation of trial before Session or Presbytery or both and often public appearances before the Congregation. Edgar suggests that it was the only way of making a fresh start ; they made the only honourable amends open to them ; they could look their fellow-men again in the face as having done the right thing. But was there anything spiritually curative in this discipline? Our purpose is not antiquarian, but to try to discover the principles involved, and to find out from a study of the terms employed, repentance, penance, penalty, satisfaction, absolution, censure, etc., the meaning of the whole thing, which after all may be elucidated better by seeing the system at work than by reading its rules.

Summing up the first general impression one has after having gone through much material on this subject of Church Discipline, one recognises there are terms that are in common use at all periods, e.g. repentance, penitence, discipline and absolution. These words belong to no particular period ; penalty is a term which in the Reformed Church comes into more general use when the other term "Church Censures"

becomes common. "Church censures" receives its imprimatur in the XXXth chapter of the *Confession of Faith* where it is practically a synonym for Church Discipline, but it soon comes to have the meaning of judicial sentence. "Satisfaction" is a term which was and is in common use in the Catholic Church, and was used by the Reformers and is the word still most frequently used in discipline cases in the Church of Scotland, where any minute is made of these at all.

In the *First Book of Discipline*, IX., 2, it is said, "the Kirk "of God is compelled to draw the sword which of God she hath "received, against such open and manifest contemners, cursing "and excommunicating all such . . . till open repentance "appeare manifestly in them." Therein discipline and its purpose are set forth, the working of "repentance" in sinners. But repentance is not to be accepted all at once,—"if signes of "unfaigned repentance, the Minister may appoint unto him a "day when the whole Kirk convenes together, that in presence "of all he may testify his repentance which before he professed." This is the "satisfaction" which the Reformed Kirk required, not a mere lip profession, but a definite proof conveyed through the outward presence of the offender in a state of humiliation before the congregation. This is borne out by the *Order of Excommunication and Public Repentance of 1567*. If the Civil Magistrate try a man for murder and absolve him the Church may not excommunicate, but may yet take to task the shedder of blood "and so may injoine unto him *such satisfaction to be* "*made publicly to the Church, as may bear testification of his* "*obedience and unfained repentance.*" And in the same *Order*, a little further on, "the Church may not receive ony Excom- "municat at his first request . . . the Superintendent or "Session may enjoine such pains as may try whether he be "penitent or not." The nature of these "paines" are defined; the least are, the "murtherar man stand three several Sundays "in a public place before the Church door bare-futed and "bare-headed clad in a base and abject apparel . . . and he "shall confess his sin." After this the Minister shall ask "if

"the Kirk desire any further *satisfactioun?*"

From these considerations it is quite clear that "satisfaction" is some sort of visible and tangible proof that the penitence of the offender is genuine, and that he is ready to suffer humiliation to be restored to the fellowship. Another thing is clear. *The Form of Public Repentance* begins thus: "It is first to be observed, that none may be admitted to public "repentance except that first they be admitted thereto be the "Sessioun and Assemblie of the Ministeris and Elderis." It was intended, therefore, that there should be a distinct status for penitents; that while by their sins or by the fiat of the Church they were outside the pale of full communion, yet that they might be admitted to the hearing of the Word, though not the prayers of the faithful, and so be recognised as being on the way to restoration to full fellowship.

This status of penitence is extraordinarily similar to that which obtained in the first centuries of the Church's history. This is what Watkins says concerning this penitential status in 450 A.D: "After hearing the confession the priest had to "exercise the office of judge. For this S. Innocent exhorts "him to 'give attention to the confession,' and to the tokens "of its sincerity. If he is satisfied, he admits the offender to "the status of the penitent and assigns to him a penance for a "determinate time. More need not be here said about the "penance, but the admission to the status of penitent must not "be overlooked. The person was now in an entirely different "position from that in which he stood before. He was then, "if a mortal offender, an outcast from the Christian fold. On "admission as a penitent he is recognised by the Christian "fellowship as an erring brother, who in the progress of his "penitence will in due course find full restoration to the rank "of the faithful. It is important to grasp this distinction. In "the long continued usage of the Church the conferring of the "status of penitence, which throughout the West is known by "the technical phrase *dare poenitentiam*, will be found to hold "a prominent place. For centuries various forms of service for

"such admission, usually styled *Ordo ad dandam poenitentiam*, "will be found provided."[1]

The parallel is completed in the Scottish Reformed Church by this admission being given in liturgical form.[2] There are, of course, notable points of difference, which serve to show up the real similarity. In the ancient Penitential Discipline of the Church, "the evidence of Church practice goes to show that "the verbal particularisation of the offence before the congre- "gation at no time formed part of the exomologesis which "was required by the Church."[3] In the *Order of Public Repentance*, on the other hand, the confession was public, and at the admission to the status of penitent the minister let the sin be known. In the ancient system the confession is to be to one person, the priest or minister of the congregation; in the Scottish system, after the Reformation, the confession is to a court. Most important is the difference that penance at this time (circa 450 A.D.) could only be granted once in the course of life. In the Scottish system this admission to penitence could be as often as there was need for it, just as the later Roman penance was reiterated after the public exomologesis had been dropped.

As late as 1705, in Act IV. of the General Assembly, the same doctrine of penitential satisfaction is still set forth by the Church—"the Session upon satisfaction with their knowledge "and sense of their sin, do admit them (scandalous persons) to "the public profession of their repentance, in order to absolu- "tion."

What evidence have we that this doctrine of penitential satisfaction (the best term is really penance, which covers the theory) was the main motive of discipline in the Church of Scotland? In the *Presbytery Book of Strathbogie* a few examples are found: "1633, March 28, Compeirit J. O., gudewife of "Littelmyln, acknowledging her former errors in wandering "from the truth, desiring most earnestly to be relaxed from

1 Watkins: A History of Penance, p. 480. 2 Form of Public Repentance, 1567. 3 Watkins, p. 470.

"the fearful sentence of excommunication, and promising in "all time coming, for to keep good ordour, and to be ane "ordinar hearer, and communicat this next Pasche;—wherefor "the Presbytery ordained Mr. Robert Jameson to receave hir "to his public repentance, and to absolve hir on Soonday "come eight days." On 8th December, 1647, H. C. made a similar request:—"The brethren ordained hir to make hir "repentance according to the actis of the Kirk of Scotland "in the lyke caice, and thereafter Mr. George Meldrum, hir "owne Minister, ordained to relaxe hir from the said sentence, "and resave her as a member of the Kirk of Scotland."

Whether in the following instance the person compeared of his own free will or not, is not easy to say, but the minute of 4th December, 1650, contains:—"Compeired J. D. in Keyth "and confessed a trelapse (in sin, etc.) Ordained to satisfy, "in sackcloth, ever till he gave such evidence of his repentance "as the congregation reported they were satisfied." Clear examples of this request to be taken as a penitent and to be allowed to make such proofs of penitence or amends for the sin committed as might be prescribed, are not frequent. It is clear by the *First Book of Discipline*, 1560, and the *Order of Public Repentance*, 1567, and by Act 1705, IV., nearly a century and a half later, that *public penitence was a privilege rather than a punishment*, even as in the early Church, and that this was to be the model of Scottish Reformed Discipline. But it presupposes voluntary confession or acknowledged contrition after some measure of discipline, and as we have seen voluntary confession has not been a characteristic of Scottish religion. And so the "paines" or satisfactions which were originally appointed for offenders at their own request, in time came to be rather "censures" or "punishments" or "penalties" which were judicially passed upon wrong-doers when guilt was proved in the Church Courts.

These two things, the sought-for penance and the judicially inflicted sentences exist sometimes side by side in the same minute-books,—being particularly noticeable in Strathbogie,—

and the one can scarcely be distinguished from the other. Parties who were delated and did not confess but stood their trial and were convicted, naturally could not be supposed to be suing for the privilege of making satisfaction to the Church, and the discipline they had to undergo was of the nature of a judicial sentence, censure, or punishment. Of course, it was never officially reckoned punishment by the Church; its object was *pro animae salute*, for the good of the offender and his consequent reclamation. But it is well known how in practice this ideal behind censure is lost in the fact of the censure itself.

This loss of the ideal of reclamation was further hastened by what has been referred to already, the fines or penalties concurrently imposed with the ecclesiastical censure, sometimes by a baillie, sitting with the Session, or as it often appears, without the Civil Magistrate at all. Examples of this are frequent in the Strathbogie records:—29th May, 1644.—The said day, "William Gib, Janat Harper, his wife, William Turtry, George "Morrison, Jean Wyld, Robert Shand, Janat Harper, parochineris of Rothemay, being sumonded for their ryotous drinking "and prophanation of the Lord's Day, by tulzieing, compeired. "The matter being referred to probatioun, was not onlie proven, "but lykwys confessed be the most part of themselfs; was "ordained to *satisfy* as follows, viz: Robert Shand, for his "cariage the said day, in drinking and keeping company with "the rest that wer excessively drunk, ordained to satisfy as ane "fornicatour; William Gib, for leaving the sermon, and drinking and tulzieing under night, ordained to stand three "Saboths in sack-cloth, and pey ten merkis; Janat Harper, for "selling drink under night, drinking and tulzieing with the rest, "ordained to satisfy as ane adultress in repentance, and pey "eight merkis; and George Morrison to satisfie as ane "adulterer, and pey eight merkis."

Another example will suffice:—8th July, 1646,—The said day, "Compeired John Paterson, being summondit by ane "reference from the Sessioun of Dumbennand, and being "accused of incest with Bessie Geddes, his wife's sister, con-

"fessed the same. The said John ordained to pay forty libs., "and stand bearfooted in sack-cloth twenty-five Saboths; and "the said Bessie to satisfy in brankis and joggs to the content-"ment of the parochin."

In these two examples we surely have every variety of phrase used in this disciplinary procedure, and also all the kinds of satisfaction, punishments and penalties, spiritual and material, ecclesiastical and civil that can be found, graded to express the degress of contrition required by the degrees of the offence—another reminiscence of early centuries.

It can hardly be argued that fines or money penalties are spiritual or ecclesiastical institutions, yet the Church of Scotland for a very long time exacted them from offenders. Nevertheless the Church in her earliest standards repudiated the idea that she could impose pecuniary mulcts on sinners. Ch. XVI. of the *First Book of Discipline* deals with "the "punishment of those that prophane the Sacraments." It does not claim the right of visiting these with temporal punishments, nor does it even dare to prescribe the penalties, but affirms that such profaners are worthy of death. The *Second Book of Discipline* defines as part of the office of the Christian magistrate, to "assist and maintain the discipline of the Kirk, "and punish them civilly, that will not obey the censure of the "same, without confounding always the ane jurisdiction with "the uther." Neither in these standards nor in the later is there any claim on the part of the Church to the exercise of temporal punishment. But in Act of Assembly, 29 Aug., 1639, "Anent the keeping of the Lord's Day" the Assembly ordains "the Commissioners of this Assembly to mean the "same to His Majesty, and to desire that a pecuniall paine "may be injoyned upon the contraveeners of this present act."

This important ordinance is passed by the Assembly of 1644:—"The Assembly, understanding that the executing of "some laudable Acts of Parliament, made against non-"communicants and excommunicate persons, and of divers "others acts containing pecuniall pains for restraining of vice,

"and advancing piety, is much neglected by the slownesse of "Presbyteries and Ministers in seeking execution thereof: "Therefore, ordains Presbyteries and Ministers respectively to "be diligent hereafter by all means in prosecuting full and "exact execution of all such Acts of Parliament, for lifting the "said penalties contained in the same, and for faithful imploy- "ment thereof upon pious uses, and that every Presbytery "report their diligence herein yearly to General Assemblies."

This was passed on 4th June, 1644, but the first Minute of Strathbogie quoted above is dated 29th May, 1644, so that evidently Strathbogie Presbytery was diligent in this matter without need of injunction, whether their diligence arose out of their sense of discipline or their need of money!

As far as the Strathbogie minutes go, there is nothing to show whether any of the elders present was a magistrate. The Assembly of 1648 "recommended to every congregation to "make use of the 9th Act of the Parliament, 1645, at Perth, "for having magistrates and justices in every congregation . . . "that each magistrate in every congregation exact and make "compt to the Session of forty pounds for each fornicatour "and fornicatrix, of an hundredth merks for each one of their "relapse in fornication, of an hundredth pounds for each adul- "terer and adulturess, according to express Acts of Parliament, "which is to be exacted of those who may pay it, and the "discretion of the magistrate is to modify it according to the "ability or inability of each delinquent."

By Cap. 70, Parl. 6, James VI., "gaming, etc., on the Sabbath is discharged under the pain of twenty shillings, and if the offenders be unable to pay, they are to be put in the stocks or joggs." Here is the alternative to a fine.

We have not been able to trace any minute of a Court at which such fines were imposed, in which it is recorded that an elder was present *qua* elder and also in his capacity as magistrate. Edgar records that it was usual for Sessions to obtain a commission from the Sheriff for one of their number to act as a magistrate in the Session for the purposes of this Act.

That may have been. He records that in Ayr Presbytery in 1698, there was difficulty in getting anyone to fill this office. This we do know, that from 1700 and some time before that date, in many Session minutes we have consulted, there could have been no Session baillie, because in the country parishes we refer to (e.g., Farnell, Kinneff, etc.) there never was such a magistrate in existence, and yet for a hundred years after that down to 1800, we regularly find Sessions levying fines and penalties upon offenders. To show the further degradation of this penalty, and that opinion was far removed at this time from regarding penance as a tangible proof of penitence, it is only necessary to cite a practice that was not uncommon in the eighteenth century and lasted till its end. The penalty after sin had become an insurance against sin. "Farnell 25 April, 1718, J. D. and Agnes W. both in this "parish were matrimonially contracted and each of them "deposited in the minister's hands four pounds Scots in "pledge of their good behaviour and they also gave one "pound Scots of proclamation money." There are cases recorded where this pledge was returned when there had been no sin (3 Sept., 1716) and where it was forfeited in case of ante-nuptial fornication (11 Dec., 1790). The necessity for this pledge was, however, no new thing in Scotland. Statute 156, of the St. Andrews Statutes of the fourteenth century "ordains "that espousals be not contracted without the presence of "priests and witnesses, that the banns be proclaimed on the "next following Sundays, and that thereafter there follow, as "quickly as is conveniently possible, the nuptial blessing. . . . "that those, moreover, who contract these espousals have "meanwhile no carnal intercourse; but that, if any do so, "they underlie canonical punishment as if they were forni-"cators." A Synodal Constitution to the same effect was promulgated by Andrew Forman, Archbishop of St. Andrews, between the years 1516-1521.

A further example of the mechanical and punitive character of discipline at this time is found in a Farnell minute, 1787, 30

Sept.—"Compeared a man guilty of fornication. The Session "was of opinion that a sessional rebuke would serve more for the "interest of religion than his being rebuked publicly before the "congregation. He was accordingly called in, rebuked and "dismissed. He gave of penalty for the use of the poor twelve pounds Scots." And there are similar instances in subsequent years. This is in the nature of a money commutation, and is proof that the penalising character of censure had now become prominent.

It is interesting to note that the word "censures" first came into prominent use with the adoption of the *Westminster Confession*, of which Chap. XXX. is "Of Church Censures." These are (1) Rebuke (2) the lesser Excommunication, which excluded from a time from the privileges of the Sacraments and even sometimes from marriage (*Form of Process* III. 4). This latter deprivation is not new, for in the *Register of St. Andrews Kirk Session* just after the Reformation Christian marriage is also regarded as a Church privilege, of which offenders are for a time deprived till they satisfy the Kirk. And (3) the Greater Excommunication. It is about this time that Church censures take on something of the character of judicial sentences and penalties, and as it is just contemporaneously that monetary penalties and fines are being imposed concurrently with them, it is clear enough that the two aspects of what appeared to be one censure, could not be kept separate either in the minds of the judges or the offender; and thus ecclesiastical censures were now practically punishments for sin. In the official teaching of the Church it was never so, but the official teaching has often given way to loose practice. Offenders were said "to satisfy in penalty and "repentance."

We must also bear in mind that this change in the tone of ecclesiastical discipline was not uninfluenced by the fact that Puritan influences were now (1650-1700) at work in Scotland. and it is characteristic of Puritanism to impose its will by external methods and rigorous discipline.

To sum up the Protestant discipline, as we see it at its full

development in Scotland, it is necessary and fair that we should judge the Reformed Discipline not by its deteriorations but by its highest declarations and manifestations. The "satisfaction" that the Church required was some sort of sensible sign (and a sensible sign is one of the essentials of a Sacrament, which the Catholic claims Penance to be) that the penitence of the offender was genuine and unfeigned, and that he was ready to accept humiliation or do any hard task to prove the reality of his desire to be restored to the Christian fellowship. A penitential status was at the first recognised by the Reformed Church of Scotland, and a formal admission into it was, as we have seen, not unusual. Thereby was asserted the continuity of the Church of Scotland of the latter half of the sixteenth century with the Church of the fifth century. Public Repentance was deemed a privilege rather than a punishment. The granting of it was a favour by the Church. Therefore the original meaning of "satisfying the Kirk" was to be accepted by the Kirk as a penitent in this humble way; "to satisfy the Kirk" continued to be the phrase when a less spiritual kind of satisfaction was exacted, until in the latest disciplinary records of the Church it has come to mean the perfunctory fulfilment of the procedure the law requires.

But taking it in its first and highest sense, it closely approximates to the exomologesis of the primitive Church. There is this very important difference, that in the Church from its first days, when the exomologesis was public, down to the time when penance began to be done in private, the confession of sinners had always been in private to the priest. Watkins is very definite upon this fact of the privacy of the confession.[1] The only exception to this was the temporary practice of public confession in Campania and Samnium, which Leo the Great so strongly condemned.[2] He says: "It is "in conflict with apostolic rule that there should be a public "recitation of the nature of particular sins, for that confession "suffices which is first offered to God and then also to the

1 Watkins: History of Penance, p. 769 and *passim*. 2 *ibid.*, p.

"priest." In the Scottish reformed discipline, therefore, when offenders came judicially before Sessions, and usually thereafter before congregations, the particular nature of their sins was made known, and this of itself was an even severer discipline than that practised by the early Church, even though her exomologesis may have been hard. On the top of this publicity came the public satisfaction or exomologesis.

The confession is the essential thing in Scottish reformed discipline. According to the *Order of Public Repentance* (1567), the Church is satisfied if there is "open confession "and profession of unfeigned repentance." Then "the sins "are forgeven, not only on earth, but also in heaven, according "to the promises annexed with the preiching of His Word, and "to the power put in the Ministerie of His Church." But we are faced with the fact that, as there has been added to this one essential the system of outward satisfaction, it too became an almost necessary condition of absolution.

It is frequently represented that in the Roman sacrament of penance, the satisfaction required is works that merit remission of sins, and that without works there is no remission, but of the four elements of that sacrament, (1) confession, (2) contrition, (3) firm purpose of amendment, (4) satisfaction (the discharge of an imposition) the official emphasis is laid upon the second and third.[1] In illness or for other reasons the first and fourth may be omitted. Moreover it is well known to all Catholics that the efficacy of the absolution given by the priest is dependent upon an honest, sincere and contrite confession. Otherwise the absolution is of no effect. Thus it is largely a self-administered sacrament. Hence in both Roman Penance and Scottish Presbyterian Discipline the one essential to absolution is sincere confession, unfeigned penitence and purpose of amendment. What difference there is is largely as to the nature of the *satisfactio*, and on that point, taking the highest teaching available on both sides, perhaps Roman and Reformed are not so very far apart. In modern use, in the

1 McCabe: Church Discipline, p. 75.

Church of Scotland, the satisfaction always precedes absolution; in Roman usage, if the priest be persuaded of the penitent's contrition, he grants absolution, and sets a penance (prayer, recitation of psalms or some appropriate corrective of the sin confessed) to help to work the dregs of the spiritual disease out of the soul. But he may defer absolution, until he is persuaded of the penitent's contrition or until the penitent makes reparation of any injury done. In practice this latter condition would also be the *satisfactio* now insisted upon by a Presbyterian minister. As to the person of the Confessor, where in the Church of Scotland confession is made at all, it is not now (in ordinary cases) to a court but to the minister, although there are safeguards.

There is more difference as to the absolution, which according to Roman teaching is the forgiveness of sins by the priest in the Sacrament of Penance. The absolution relieves the penitent of the sentence to hell, whither go all unrepentant and lost souls. It is given privately as the whole act of Penance is in private. In the Church of Scotland, discipline having been in public, absolution from the scandal was given and restoration to the privileges of the Church was made in public. In later times where the discipline was sessional, the minutes usually run, "A.B., having confessed his guilt and "satisfied the discipline of the Church, was rebuked and "absolved from the scandal."

The form of absolution of an excommunicate person is of course to be in public with due solemnity. As only the Presbytery excommunicates, so it is only by the authority of the Presbytery that the Kirk Session can proceed to absolution. The *Order* given in 1567 is repeated practically in the *Form of Process* in 1707, though in shorter style. The minister absolves in these or like words: "Whereas thou, A.B., hast for thy sin "been shut out from the communion of the faithful, and hast "now manifested thy repentance, wherein the Church resteth "satisfied, I, in the name of the Lord Jesus, before this con-"gregation, pronounce and declare thee absolved from the

"sentence of excommunication formerly denounced against "thee, and do receive thee to the communion of the Church, "and the free use of all the ordinances of Christ, that thou "mayst be partaker of all His benefits to thy eternal salvation."

In adopting the indicative form, the Church of Scotland was departing from the style of the early Church, which in other respects she had followed. "No indicative form of "absolution, as *Ego te absolvo*, is known to come down from "the early centuries. It cannot however be certainly affirmed "that no such form was ever used." [1] A common form was half prayer, half pronouncement, of which an example is found in the Church of England Prayer Book, "Order for the visitation "of the sick." The precatory forms were in general use in the Western Church till the thirteenth century.

This Scottish form may be regarded as half prayer, half pronouncement, for it is preceded by a prayer for the penitent. The pronouncement itself however is notable. It is not a pronouncement of the forgiveness of sins, but of absolution from the sentence of excommunication. It declares the penitent's reception again into the Church of Christ on earth, and the free use of all the ordinances of Christ, whereby he can have full union with Christ and enjoy all His benefits to all eternity.

Thus does the Church declare, like the Church of Rome, that she is a "*status cum imperio sibi proprio*." She admits into her fold by the Sacrament of Baptism, she exercises discipline, and if need be expels from her fellowship, and by Absolution can receive the penitent into her fellowship and communion again.

1 Watkins, p. 494.

CHAPTER EIGHT.

The Decay of Discipline in the Church of Scotland and the Act of Assembly, 1902, VIII.

WHETHER we should call it decay or advance depends entirely on the point of view. By some the disappearance of the old Discipline may be regarded as wholly to the good. Since nothing has taken its place—except that, as we shall consider later, the discipline of the preached Word may be said to be the modern substitute for the older and more formal discipline—the advance is negative in character. When we speak of the decline of Church Discipline in the Church of Scotland we mean that the old form of the trial of offenders before the Courts of the Church has fallen into desuetude and that the public or sessional satisfaction, which was formerly demanded, is no longer required. Discipline has in practice been narrowed down to one particular kind of offence, viz., sexual immorality, and any records or minutes of disciplinary procedure have almost totally disappeared.

A great deal of discretion had been allowed to Kirk Sessions both under the *Form* of 1567 and that of 1707, as to what discipline it was necessary to meet out to offenders. And no doubt in this discretion the minister had a considerable share. We need not look for any definite date marking the beginning of laxity in discipline. Dr. Andrew Edgar[1] gives a minute of the Kirk Session of Fenwick of the year 1692, which reads:—"The Session finding the scandal of swearing not verie "flagrant through the whole parish, and that the witnesses "cannot prove anything effectuallie more than (the accused) "confesses, and he being of a stiff proud humour, unanimouslie

1 Edgar: "The Discipline of the Church of Scotland" in The Church of Scotland.—Ed. Story.

"resolve that he shall onlie be rebuked before the Session." It was nearly a hundred years later, in 1787, that in the parish of Farnell, according to the minute quoted on p. 158 the Session slackened discipline to the extent of making it sessional rather than public. On going through records of Kirk Sessions in the eighteenth century, we find one fact beginning clearly to emerge, and that is, that records of disciplinary cases other than sexual offences begin to get rarer and rarer, until virtually cases of sexual immorality monopolise the minute books of the Church. The discipline of other classes of offenders is carried on longer in some parishes than in others. At the end of the eighteenth century there are yet in existence in some parishes yearly lists of scandalous persons, that is, of those under discipline to whom tokens for the Lord's Table were not to be granted. An exhaustive examination of these lists, if it could be made, might afford some interesting facts regarding the religious and moral life of the people, but they could not be treated as police statistics are sometimes treated, the increase or decrease of convictions being taken as an indication of the rising or falling level of the Christian life.

Dr. Edgar gives a note on the list of scandalous persons in Mauchline in 1782. There are over sixty names. Half of these are charged with the common conjoint sin of these days; five with adultery; eight with petty theft; two with fighting, two with the guilt of schism, two with "irregularity," two soldiers presumably without testimonials, one with contumacy, one with "ignorance," one woman with a "bad reputation." This list is as late as 1782, but it is pointed out to be a bigger list than usual for that parish. It shows that discipline still covered a wide area of offences, but it would require the examination of many lists to bear out the evidence of this particular one. Its evidence amounts to this that in 1782 about sixty per cent. of the cases of that parish were concerned with sexual immorality and the other forty per cent. with other sins and offences.

From inquiries we have made regarding the evidence of

Session records as to when offences other than sexual ceased being dealt with, we conclude few parishes would have a mixed list of offences so late as 1782.

The Kirk Session of Farnell in 1747 disciplines two elders for taking part in the "unnatural" rebellion of the '45. The same year an elder is charged with "swearing by his faith." From 1716 to the present time these are the only two cases recorded other than the usual varieties of immorality.

The parish of Monifeith in 1703 deals with children making a noise on the Sabbath; in 1713 with men collecting shipwrecked timber on the Lord's Day; in 1724 with excessive drunkenness, fighting and swearing.

The parish of Fern deals with Sabbath-breaking in 1720, in 1722, and in 1736, and these cases went to the Presbytery.

The parish of Kinneff in 1737 deals with the use of profane language, in 1739 with frequenting ale houses on the Lord's Day, in 1739 with a case of witchcraft, surely one of the last dealt with by the Church. This parish also disciplined (*sic*) a lunatic in an iron cage for six years (1740-6). In 1741 the same Session dealt with fishermen for visiting a ship lying off the coast several times on the Lord's Day, which was the Communion Sabbath. In 1744 there was another case of Sabbath-breaking, a man having gone with horse and cart, seeking "neeps" on the Lord's Day. The defence was—he forgot what day it was! In 1773 we read of a man taking up lobster creels on the Sabbath. In 1773 also a party is asked to submit to a private rebuke by the Minister for contracting an irregular marriage. In 1782 there was an interesting case of discipline when the Presbytery resolved to prosecute before the Sheriff a man who had tricked a woman out of all her money.

The parish of Boharm records little else but sexual offences from the beginning of the eighteenth century.

These are all typical country parishes where old customs persist longer than elsewhere, and where the formal discipline has in most instances continued to our own day. We have no

doubt that the examination of other records would bear testimony to the same fact, viz., that by the first quarter or certainly by the middle of the eighteenth century, Church Discipline was concerning itself about only one matter, that of sexual immorality. The other matter which had persisted as a subject for Church Discipline down to that period (and later instances of it will be found) is that of the profanation of the Lord's Day. The General Assembly has fulminated against violators of the Fourth Commandment unto this day, and for public criticism by ministers and Church Courts this breach of the law of God offers an easier target than that of the Seventh Commandment. But through both the Roman and Reformed periods of the Church's history it has been the breaking of the Seventh Commandment that has ever been the sorest perplexity to the Church.

In the matter of the discipline of sexual offences there has been a continuous modification of the procedure going on, first unofficially, then officially by the Act of 1902, VIII., and now unofficially again, with complete disregard of the law. The procedure is clear in the 4th, 5th and 6th Chapters of the *Form of Process*. But since 1707 the character and spirit of Discipline have greatly changed. At the beginning of the eighteenth century we read in Kirk Session records (e.g. Farnell) that those guilty of fornication had to enter upon public repentance and that they had to appear "upon the pillory" on three Sundays. By the end of the century appearances "on the pillory" had ceased, and the Session were exercising their discretion as to when public appearances were necessary and when sessional dealing alone would suffice. At the same time adulterers were still making their appearances before the Presbytery and the congregation.

During last century a great simplifying of procedure had taken place without authority; laxity was encouraged, and the rules of the *Form of Process* had become unworkable owing to the changed spirit of the age. Especially was it found that the method of citation of parties laid down by the *Form of Process*

was productive of evil rather than good, and yet they were necessary before a judicial conclusion could be reached. So the General Assembly in 1902 swept aside much of the formality of the disciplinary law of 1707, and by its action put much power of initiative in difficult cases into the hands of the minister.

Act 1902, VIII., is an alternative to the unaltered *Form of Process*. The effect of it is that, when a person under scandal is slow to submit to discipline, it shall be the duty of the minister pastorally to endeavour to bring him or her to such submission. If the minister fails, the Kirk Session by the Clerk is to intimate to the accused by ordinary registered letter, that, in connection with the scandal, if he does not within thirty days submit to discipline, he will be suspended from the privileges of the Church till submission is made and the case disposed of or the Kirk Session be otherwise satisfied.

The second paragraph provides that if they find no sufficient cause to doubt the woman's truthfulness in a case of fornication, they may proceed with the case so far as it relates to her. This simplifies and shortens the dealing with her. But it now frequently happens that because the woman is at home and the proof of her guilt usually patent, she is dealt with, but the man being frequently in another parish escapes discipline, because, although recommended to do so (Sect. 6), a Kirk Session now rarely transfers a case to another Session. This makes the discipline one-sided, and is an argument for discontinuing it altogether.

If the accused does submit to discipline, the minister shall try to guide him to an apprehension of his position before God and the Church and the congregation. The minister shall then report the case to the Kirk Session, who after consideration may dispense with compearance, and relegate the matter to the minister, or the minister and an elder, to deal with the accused, and to report. The Moderator tries to satisfy himself of the accused's penitence, rebukes and counsels him. He then reports his satisfaction to the Kirk Session,

who on a satisfactory report resolve to restore the penitent to the privileges of the Church, and through the Moderator or Clerk this is intimated to him. This has been shortened in practice by the Kirk Session giving power to the Moderator, if he is satisfied, to absolve the accused from the scandal. The Moderator reports accordingly and the matter takes end.

The only obligatory part of this alternative procedure is that the minutes of discipline cases shall be kept in a separate minute book, and the names therein rendered illegible after five years. Although it is the law of the Church that the Discipline Minute Book of each parish shall be before the Presbytery for attestation yearly, it is safe to say that such minutes are now kept by very few Kirk Sessions.

The Act orders that it shall not be competent for Kirk Sessions to follow any procedure other than that of the *Form of Process* or as now modified by these new clauses.

A few observations may be made upon this Act, which brings the history of Church Discipline in the Church of Scotland down to the present time. First, a note subjoined to the Act itself states that the last clause is to bring to an end the unauthorised and diverse methods that are practised in some parishes and parts of the Church. For practically two hundred years the *Form of Process* had been the standard regulating discipline in the Church. But for a hundred years at least procedure had become very chaotic or—except in case of libel—almost non-existent. Discipline, we believe, had been too long unregulated to be put right by an alternative procedure to a *Form of Process* which was two hundred years old. The alternative given by the Act of 1902 is also almost a dead-letter. It gives, no doubt, a form of procedure for such special cases as occur from time to time in many a parish.

Secondly, we note that while under Act 1902, VIII., any scandal may be dealt with, it does look as if it were constructed for the one particular sin that so largely has engaged and still engages the anxious care of the Church. It could hardly do anything else, for, as we have seen, the Church had

long since ceased dealing with other kinds of offences.

Thirdly, and this is not without great significance, with one or two safeguards it practically gives authority to the minister to hear confessions privately, to judge of penitence, and to administer rebuke or give counsel, as he may think best, and, though this is not strictly in accordance with the Act, if he is satisfied, to absolve from the scandal and restore to the privileges of the Church. There is in this procedure something of a recapitulation of the history of Penance in the Church. The confession was always private. At first the penance was public; then it became, by the Fourth Lateran Council, privately administered. In the Reformed Church of Scotland the confession was always public; by this Act it becomes very largely private, while the satisfaction, which was first congregational, then sessional (and often public, at the discretion of the Session), has now practically become private, the minister alone (with an elder, if thought advisable) having to be satisfied. The safeguards, a minute to begin the process and a minute to end it, are all that stand between the minister and the assumption by him or the bestowal upon him of full disciplinary powers over his flock. The danger is not the rise of the confessional, though the way to it is more open than it once was, but the loss of the very idea of discipline. If discipline is, as the reformers held, one of the three true marks of a church, is its loss not to be regarded as a symptom of disintegration?

Fourthly, the obliteration of names after the space of five years is a significant gesture in the same direction. The five-year period is fixed no doubt because it is laid down in the *Form of Process* (I., 4) that if a scandal shall happen not to be noticed in order to censure for the space of five years, it should not be again revived unless of a heinous nature. Therefore parties that have been absolved for five years are not likely to come under the discipline of the Church again for the same offence, and so the Church will do well to blot out all record of their former sins. The Courts of the Church of Scotland

are Courts of the land (although their position in this respect has not been so clear since the passing of the Church of Scotland (Property and Endowments) Act, 1925,), and therefore all judicial dealings with the individual have to be recorded. But this study reveals that there is something unchristian in the Church branding for all time the names of her members—unremembered and for the most part unknown even as the ancestors of living men—with the shame and sorrow of their sin. Scripture has recorded the sins of kings, prophets, and apostles—true, but it has also left the record of their greatness as well as of their sins. The records of the Church are a vast, unrelieved catalogue of sins and sinners. It is charitable to believe that many of these lived to make good. It is for the Church to find a way whereby her sinning members shall be disciplined but their sins shall not be remembered against them for ever. God Himself blots them out of the book of His remembrance.

CHAPTER NINE.

The Causes making for the Decline of Discipline in the Church of Scotland.

HAVING now reviewed in its main outline the history of Church Discipline in Scotland in the Roman and the Reformed periods, and having incidentally touched upon some of the reasons making for decay, we may be expected to set forth more particularly the main causes of that decay in the Presbyterian Church. This we shall try to do, setting them down not in the order of their importance, but as far as possible in the order of their occurrence. The causes of decay are perhaps in a sense only secondary, the primary and deeper reasons having been already touched on as we dealt with the subject of sin and confession and the needs of the human soul.

The following reasons suggested as accounting for the decline of our Presbyterian discipline date for the most part from about the beginning of the eighteenth century, which, as we saw, was about the time when discipline was narrowed down to deal only with the sexual sins:—

I.—The Reaction against Puritanism.

It will hardly be questioned that in the history of religion there are two elements which seem always to be present, yet often in conflict. At the Reformation these two for the most part separated, the one being embodied in the Catholic tradition and the other in the Protestant. The Catholic stands for elaboration and form, the Protestant for simplicity and the spiritual rather than the formal. In government the Catholic favours the monarchical system, episcopacy and the hierarchy of men; the Protestant, a more democratic and republican

form, preferring a hierarchy of Courts to a hierarchy of individuals. The distinction is seen markedly in worship, Catholic worship being liturgical and sacramental, seeking outward beauty of expression, Protestant worship tending to despise form and to seek expression in pure spirituality, as far as man can embody it in words.

After the Reformation we find that the former tradition was ever seeking to assert superiority in Episcopal government and liturgical worship, and the latter in Presbyterian government and in a worship which emphasised the sermon as against the "preliminary" devotions. With these two conflicting traditions went different ideas of Church Discipline. A protest has a way of becoming a positive rule, and the Scottish objections to Episcopacy and imposed liturgical worship were carried into the realm of morality and behaviour and into the Church discipline which regulated these. This hardening of tone can be seen in the Church of Melville as contrasted with the Church of Knox, due to the struggle against a militant Episcopacy, and the tone hardens even further in the later struggle against the "Second Episcopacy." By this time the Church of Scotland had come in contact with English Puritanism. The work of Travers was known to the framers of the *Second Book of Discipline* and had had its influence thereon. The attempt to force a new Service Book on the Church in 1637 resulted in the National Covenant and the Covenanting Assembly of 1638. The circumstances of the time threw the Covenanters and the English Puritans into one another's hands. The Solemn League and Covenant of 1643 was drawn up, and as a result the Church of Scotland approved of the *Westminster Confession of Faith* and the standards formulated by the Westminster Assembly of Divines. Principal Sir Donald Macalister in his *The English Authors of the Shorter Catechism* shows that these standards were mostly the work of Englishmen and that "the tradition established by men like Cartwright two generations before had persisted and borne fruit."

Causes of Decline of Discipline

The influence of Puritan ideas is seen not only in the *Westminster Confession of Faith* but in the administration and government of the Church of Scotland of the time. That spirit shews itself in the disciplinary measures and remedies of the Assembly of 1648, which was the Assembly following the one in which the *Confession of Faith* was ratified, and which approved of the *Shorter Catechism.* The chief note of Puritanism in worship is the fencing of the Lord's Table and the strict terms of admission to it, with the even sterner suspension from its privileges and the excommunication from the society of God's people.

As we have seen, it was out of the remedies propounded by the Assembly of 1648 that there was developed that system of espionage and invigilation, with its whole remorseless system of ecclesiastical supervision, censures and penalties. The process necessary to restoration to the fellowship included appearances in public, sackcloth, penalties and humiliations.

It was during Cromwell's occupation of Scotland, and under the influence of his Puritan soldiery that the Fast Days and many subsidiary services were fastened upon the Scottish Communion Service. During the period when the General Assembly did not meet, the growth of all these Puritanic influences on worship and discipline was no doubt encouraged by the dour, stern temper of the Covenanters in the "Killing Times." The party in the Church, however, who represented the other tradition was never completely smothered. Many of them were the Episcopal clergy of the "Second Reformation," and we must remember that when the Revolution Settlement was effected, many of the Episcopal clergy were left in their charges. It is claimed that, as late as 1707, 165 Episcopal ministers were ministering in parishes.[1] Some of them had submitted to Presbytery, and in 1695 over a hundred of them had accepted an indulgence, without conforming to Presbyterianism, acknowledging William as King. It was in this

1 Bishop Anthony Mitchell: A Short History of the Church in Scotland, p. 95.

very year, 1707, that the *Form of Process* was adopted by the General Assembly. It may have been that Puritan influences in the Church wanted thus to stereotype and regularise the discipline which had been in force (though exercised with great variety of method), since 1648, when the Assembly had so stiffened discipline. The Puritan party may have been all the keener to do this, because of the more humane spirit which since the days of Knox had never been lacking in the Scottish Church and was at this time again seeking expression. It has been suggested that the Episcopal incumbents who were left in their parishes at the Revolution Settlement gave rise to that party in the Church which was afterwards called "the Moderates."[1] Accordingly the Puritan tradition would adhere to them who split off from the Church in a long series of secessions, leaving the Church less censorious than it had been.

This is a hypothesis to account in some measure for the relaxing grip of discipline in the first half of the eighteenth century, to be taken in conjunction, of course, with other causes which we shall consider. It is one that cannot very well be proved though it is inherently possible. Certainly the Discipline of the Church of Scotland derived from Calvin and the Genevan model was stiff. But it is worth observing that a very distinct hardening took place after the Assembly of 1648, just at the time when intercourse with Puritan England was most intimate. A note not so much of sternness as of censoriousness enters, which developed the ecclesiastical detective system and raised it to the height of its power about the end of the seventeenth century. It is a note of Sabbatarian fanaticism and sectarian exclusiveness, which is foreign to the earlier standards of the Reformed Church in Scotland, and which begins to die out in the eighteenth century, though in places it lingers still. A more humane note also enters, as witness the Act of Assembly 1737, ult., which ordains a Kirk Session to admit a man to make satisfaction without sackcloth.

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1 *Vide* Provand: Puritanism in the Scottish Church.

II.—Dependence upon the Civil Magistrate.

In many ways the Church's tendency to fall back upon the Civil Magistrate, when her own discipline failed her, undermined what authority she had. Here is an Act of the Scots Parliament, 1609, C. 5:—"Excommunicate persons not to enjoy "possession of their lands, which shall be uplifted to the "King's use." That surely was a disability of weight. An Act of the Scots Parliament, 1617, C. 8, and ratified 1661, C. 338, reads:—"Justices of the Peace to order apprehension "of persons contemptuously disobeying the censures of the "Church." Another Act of 1693 says:—"The civil power is "to enforce the sentences and censures of the Church judi-"catories." Act of Parliament, 1661, C. 216, is ratified by 1695, C. 4. It is against Blasphemy, with the addition that anyone denying the being of God or any of the Persons of the Trinity, or the authority of Holy Scripture, shall be first imprisoned until he make satisfaction in sackcloth before the congregation; for the second offence he shall be fined, and for the third he shall suffer death.

These are samples of the laws imposing civil disabilities and punishments upon ecclesiastical offenders, passed by the State with the concurrence, and indeed at the request, of the Church itself. This dependence on civil power has not been peculiar to Scotland. Both Pepin and Charlemagne enacted that the State should give effect to the censures of the Church. The *Second Book of Discipline* (Chap. X., "Of the Civil Magistrate") expressly says it is the duty of the Civil Magistrate "to assist "and maintain the discipline of the Kirk, and punish them "civilly that will not obey the censure of the same, without "confounding always the one jurisdiction with the other." Let us recall again the terms of the Act of Assembly passed as late as 1697 (XI.), " . . . and they seriously recommend "to ministers and members of Kirk-Sessions, from a true zeal "for God, to hold hand to the delating, informing against, and "punishing of all profane transgressors, without respect of

"persons, by *civil punishments*, conform to the Acts of "Parliament made in that behalf . . ," and it goes on to say that if they find any slackness in magistrates in executing the said laws, "Presbyteries are recommended to pursue the said "negligent or refractory magistrate before the Lords of "Council or Session."

This dependence upon the Civil Magistrate extended at an earlier time beyond the scope of discipline, even to eradicating a superstition from the minds of men. In the Assembly of 1594, 13th May, it is recorded there was a horrible superstition in Garioch and other parts of the country. A plot of ground was not worked because it was dedicated to the Devil, and was called "the Goodman's Croft." The Assembly decided that a request be made to Parliament to enact that all persons who possess such lands shall labour them; in case of disobedience the land was to fall to the King. Whether this was done, we have not been able to trace, but it is on record that at a visitation of the parish of Rhynie, Sir William Gordoune of Lesmore "was asked whether or no there was any land in that parish "that was given away (as is commonly said) to the Goodman, "and used not to be laboured; answered, it was reported to "him that there was some of that in his own maines, but that "he had a mynd, by the assistance of God, to cause labour the "same, whereupon he was commended for his ingenuitie in "declaring it, and exhorted to take pains shortly to have it "laboured."[1] The superstition had continued to exist nearly sixty years after the Assembly approached Parliament. And little wonder! Why, we may ask, did not the Church rely upon her own teaching and moral suasion and her belief in education, to combat a superstition like that? and if these moral forces failed, she had still her own instruments of suspension and excommunication to her hand, instead of calling in the secular arm. Sir William Gordon seems very ingenuous indeed. He must have known very well of such a superstition existing in his own estate, and the Presbytery seems very

1 Presbytery Book of Strathbogie, 1631-1652 (Spalding Club).

tender with an elder of his standing. The history of this superstition illustrates the tendency of the Church, even in a matter not strictly of discipline, to depend upon the civil arm.

But in matters of faith, where she had every right to exercise discipline, she also had final resort to the Civil Magistrate. The *Form of Process*, Ch. VIII., 18, declares that though it be the duty of pastors and elders, by doctrine and discipline, to prevent and purge out such errors, heresies, schisms, scandals, as tend to the detriment of the Church; yet, if these means alone are not effectual, it is necessary to employ the aid of the Civil Magistrate who ought to use his coercive power for the suppressing of all such offences, and vindicating the discipline of the Church from contempt. This last is just what he cannot do! The Church can counter error with the truth, and if needs must, discipline or even expel the propagator of error. But in moral discipline also, as the Act 1697, XI. shows, there was an actual reliance upon magisterial authority.

As long as the Church relied upon the power of her own censures, and tried to make her own life such that exclusion therefrom was a real deprivation to the offender, then we might expect her censures to be respected and to be for the good of herself, her erring members and the State. But when her censures carried with them civil disabilities, and she encouraged haling sinners before the magistrates, she was on the way to losing authority over her own people. A later development of this tendency is to be found perhaps in the disposition to leave cases of drunkenness, fighting, swearing, lying, cheating, stealing to be dealt with by the justices of peace or magistrates of burghs, four of whom in every burgh were justices by the Act 1587, C. 82. It was common for justices to ordain parties to find surety to keep the peace.[1] As we saw, this was sometimes done in the Session; but at the beginning of the eighteenth century, there was difficulty in getting elders to act in this magisterial capacity, and by the end of the first quarter

1 Lorimer: Handbook of the Law of Scotland, Sect. 2160.

of the century, the laws for enforcing the judgment of Church Courts by civil authority were a dead letter. And it was just at the same time that the above-mentioned cases are ceasing to be dealt with by Sessions. It is likely, therefore, that the jurisdictions were now acting separately, and the justices dealt with these cases up till about 1830, when the police were organised and began to take over what at one time Sessions had dealt with.

III.—The Legalistic Nature of the Discipline of the "Form of Process."

We have dealt with this cause of decline already when examining the *Form of Process*. Under this *Form* Church Discipline is largely the work of a court, instead of a human soul pleading with another soul. We think of Jesus and His treatment of sinners, and then we look at this document and the procedure it lays down for the treatment of sinful men and women by the Courts of this Church. It is an axiom of this process "that a fault cannot be visited with judicial censure "unless it has been confessed to the Court or regularly proved." Therein lies a difficulty. The Church gave no encouragement to voluntary confession. We mean there was no special provision made for any who really felt constrained to confess sin. The emphasis was laid upon delation, and elders and Church members were encouraged to bring the faults of others before the Session. In the second half of the seventeenth century, when delation was in its halcyon age, the method of delating may have been possible, because there was no Assembly and the legal forms were very various and somewhat lax. But when the procedure became more definite, as it did under the *Form of Process*, it was to some extent its own undoing. Faults may have been patent, but the difficulty was to prove them to the satisfaction of the Courts. The difficulty began to be known of getting anyone to libel—a difficulty which

persists to this day. In particular, this has been a very real difficulty to Presbyteries in disciplining an offending brother. His own congregation are found reluctant to come forward with proofs of guilt. The Presbytery has an additional difficulty in that it is both prosecutor and judge, a difficulty, however, of which it has been relieved by the Act 1910, XI., which has made provision for an Assembly "Committee on Libels." At the request of a Presbytery, this Committee may take charge of the preparation and prosecution of a libel.

There is no doubt, however, that after the adoption of the *Form of Process*, its legalistic nature made discipline more and more difficult. Delations began to cease, and proofs of sin were difficult to secure. That is perhaps the reason why the sin that alone came to be disciplined in the eighteenth century was any breach of the Seventh Commandment. If there was a child in the case, the proof of guilt had not to be sought for, and so Church records since the eighteenth century began to contain practically only cases of sexual immorality. These are not the only sins of church members, we may be sure, but which of the other deadly sins are so undeniable?

IV.—Dissent.

If there were only one church in a nation, the problem of discipline, we can understand, would be easier. A remnant of the Roman Church existed in Scotland from 1560 onwards, becoming a "Mission" in 1695, and the Hierarchy being restored in 1878. The Roman Church in Scotland, as an effective dissenting rival never counted to any extent till quite recent times. Her discipline, especially the effect of the *Ne Temere* decree, is now being increasingly felt as threatening to disintegrate and make serious inroads upon the Church of Scotland and all the Protestant Churches. A mixed marriage is allowed by the Roman Catholic Church in Scotland on condition that it takes place before the parish priest of the district where the Roman Catholic party resides, and further

that the children of the marriage are brought up in the faith of the Roman Church. The Roman authorities regard a mixed marriage celebrated by a Protestant minister as no better than concubinage. It is usually found that "the "Protestant party—less amenable to discipline and more "assertive of independence—gives up whatever attachment "he or she ever had to the faith of their fathers, and without "any definite conviction or clear understanding of the faith "they profess, profess themselves to be Roman Catholics." [1] But the Church of Scotland had earlier relations with the Roman Church. In the seventeenth and eighteenth centuries there is not much evidence that the "competition" of the Roman Church seriously undermined Presbyterian discipline. Act 1704, VIII. of the General Assembly presupposes some such adverse influence, however,—"The General Assembly "considering that some persons when challenged for scandal "do turn Popish, or pretend to do so to avoid censure, do "therefore enact that the Church proceed to the censure of "excommunication against such, after all the due pains taken to "reclaim them prove ineffectual; and appoints this present act "to be intimated in all the churches within this Kingdom." Probably the privacy of Catholic discipline commended it to certain persons of rank, but it is difficult to understand how they set against this advantage the civil disabilities with which Roman Catholics were at this time visited.

The Church had always to contend with the indiscipline of non-communicants and excommunicates. In 1642 overtures were presented to the General Assembly and approved—"Against Papists, Non-communicants, and Profaners of the "Sabbath." The purpose of this Act was to compel Presbyteries to see that the Acts of Parliament against Papists, those who were not of the Church (it is impossible to say what proportion of the population at that time owed allegiance to no Church) and those who had been excised from the body, were duly put into execution. That is all the Church could

1 General Assembly Reports, 1925, p. 114.

do, but it is a presumption that there was a considerable body of the people who were beyond the immediate discipline of the Church in the middle of the seventeenth century.

With the Protestant Episcopal Church it was different. Sometimes that Church was the Established Church, sometimes it was the principal dissenting body. After the Revolution Settlement it was dissent, and like the Roman Church, being subjected to disabilities, it did not offer a shelter to refugees from Presbyterian discipline to any great extent till after 1792, when the penal statutes against the Episcopal Church were removed.

A case is on record, however, as witnessed to by the Acts of Assembly, 1715, XIV. and XV., where the woman, who was convened before the Presbytery of Kirkcaldy, gave as the father of her child Mr. C. M. of R. He was ordered to compear, but it turned out that certain prelatical preachers had had this Mr. C. M. before them and given him an oath of purgation. The Assembly considered this "an illegal encroachment upon the discipline of the Church, which may "prove of dangerous consequence, and ordered the Presbytery "of Kirkcaldy to proceed against the said Mr. C. M. of R. "according to the rules of this Church, notwithstanding of "anything these prelatical preachers have done or may do in "that affair. And, further, the General Assembly discharges "these prelatical preachers to proceed any further in that "matter, as they will be answerable, and appoints this to be "intimated to them by the officers of this Assembly, . . . "And the Assembly does appoint this method to be observed "in the cases of scandal when any others, either Episcopal "preachers, or such as pretend to be Presbyterian ministers, "but do separate from this Church, take upon them to exercise "discipline." By the title given to the man under discipline in this case he was evidently a landed proprietor, and the disinclination of such to submit to the discipline of democratic "elders," though it apparently existed before the severer penal laws were passed, found relief after the disabilities were re-

moved in throwing off the yoke of Presbyterian discipline for the lighter yoke of the Episcopal Church. The popularity of the Episcopal Church with people of a certain rank in life is not wholly unconnected with the question of status and social prestige. It found its supporters first among the gentry who upheld the autocracy of the Stuart dynasty, and then among those who, when that dynasty was finally overthrown, would not submit to the democratic discipline of a Church which knew no respect of persons. No later Act of Assembly than the one we have quoted records the secessions from the Church of Scotland to the Episcopal Church over matters of discipline, but we believe that the Session records of the early nineteenth century are not without many examples of secessions of this kind.

We have already referred to the first secession from Presbyterianism which occurred in the first half of the eighteenth century, as being a cause of relaxing the discipline of the Church of Scotland in another way. The Puritan deposit in the Church thus began to be eliminated, and the discipline tended more to humaneness, which from one point of view may be termed laxity. This process went on till the great secession of 1843, when Presbyterianism in Scotland was disrupted. The influence of the great body of Dissent that subsequently existed in Scotland had a very direct effect upon such discipline as yet remained. This is a historical fact which is well within the experience of the present generation and the older generation particularly. Discipline could not be carried on with any rigour, or even at all, when there was in the same parish a rival church which would welcome the offender and offer him refuge from "persecution."

The year 1829 saw the Roman Catholics finally relieved of their legal disabilities. The private character of their discipline tended formerly to attract offenders against Presbyterian standards; and, as we have seen, it is their very discipline to-day which is further weakening such sense of discipline as yet exists in the Church of Scotland.

V.—The Industrial Revolution.

It was some time after the Union of Parliaments in 1707 before material prosperity came to Scotland. In the year 1727-28 the total value of the linen produced in the country was £103,312, in the year 1770-71 it was £632,389.[1] A fact like that means a great change in the social conditions of the people. After the middle of the century when the industrial revolution was effected through the inventions of Arkwright and Crompton, and the great natural resources of the country in her coal and iron were tapped, the whole face of the country was changed. The little villages became populous centres of industry, the towns and cities began to develop and extend. And there is little doubt that the Church, which at the beginning of the eighteenth century was able to cope with offenders against her code of morals in the static and simple conditions which then obtained, found herself before the end of that century living in new conditions, when her people became more migratory as they followed up the development of trade. Dense populations too made parochial supervision of the old type difficult and impossible.

This development went on, and when the Church followed it up with her extension churches and new parishes in the middle of last century, it was already too late for the new Sessions thus created to adopt a discipline which was already defunct even in many old parishes where it had existed in unbroken, if declining, continuity.

VI.—Publicity and the Press.

We have already referred in our discussion of Privy Censures to what Dr. Alex. Hill, writing in 1840, says about the changing state of society.[2] "Publicity is given to all that occurs, "and intelligence is rapidly transmitted through every district "of the country." He seems to think that that to some extent

1 Pennant: Tours in Scotland, II., p. 473. 2 Dr. Alex. Hill: Practice in the Church Courts.

accounted for the desuetude into which the practice of the visitation of parishes had fallen.

Had the rise of the newspaper press any effect upon Church Discipline? It is difficult to imagine how the mass of the people got their information about national happenings before the newspaper became general. The centre of intellectual activity in most parishes was the parish church. It was the one and only public institution from the time of the Reformation till 1872, when the Education (Scotland) Act of that year set up the parish school as a separate institution. The Church had controlled education and the relief of the poor; the sermon was the instrument of mental and spiritual culture, and the sessional discipline ruled public and private conduct. The Church was then the one influence that moulded public opinion, and in matters of morality and conduct was responsible for what ideas then prevailed. In the days when the congregation was asked "what further satisfac-" tion they required," public opinion was actually consulted on matters of conduct. A vague religiosity was discouraged, and people were trained by this discipline to have a standard of objective truth in matters of conduct.

Newspapers began to appear in the first and second quarters of the eighteenth century, but the circulation of the *Caledonian Mercury*, first published in 1720, was only 1,400 copies in 1739.[1] The *Scotsman* first saw the light in 1817. These papers were very political in character, fiercely invective, and bitterly personal, and their circulation was small. But the news they contained and the opinions they expressed must have percolated down to the classes that could neither buy them nor read them, and the effect must have been that interest became less parochial and broadened out to national and even foreign affairs. The earlier newspapers in Scotland were not very friendly to the Church, and there is just reason to believe that, taken in conjunction with the other causes we have considered, the influence of the new form of publicity

1 Hume Brown: History of Scotland, III. p. 334.

tended to hasten the declining discipline of the Church. This at any rate was the case in towns and burghs, where the effect of the Press and the wider interest taken in political affairs at the beginning of the nineteenth century would begin to absorb more of the attention of the people. This, however, cannot to any great extent account for the decay of Church Discipline in purely rural parishes, where even yet to many people the newspaper is only a weekly source of knowledge of outside events, and where parochial affairs are still a more real fountain of interest than world-shaking events.

VII.—The Discipline of Preaching Emphasised.

The Editor of the new (1924) translation of the *Discipline of the Reformed Churches of France*—an order of Discipline adopted in 1559 that greatly influenced the Scottish Books of Discipline—writes thus in her introduction:—"The "penal enactments . . . have undergone a good deal of "modification. . . . We have all travelled far from the time "when Church Courts penalised people right and left, at any "rate for offences which were not breaches of the Second Table "of the Decalogue. Elders still have their right of censure, "but they are not the dreaded moral detective force they once "were. . . . With the training and development of the free "individual conscience which all that is best in Reformed "Church teaching has fostered, Christian people have now on "the whole less regard than they formerly had for the thought "of what is merely outward or formal either in punishment or "reward; and it may be said perhaps in addition that there is "more real 'solidarity' about the considered public opinion of "a whole Church—or of the Churches—than in earlier days, "and that here is to be found a great part of the protective "element which at one time lay in the application of canons set "down in black and white." This recognises that there is a disciplinary power not only in the external constraints of censures but in the teaching and preaching office of the

Church. That power has co-existed with its formal discipline in the Church of Scotland since the first. The *Shorter Catechism* well expresses it: "The Spirit of God maketh the "reading, but especially the preaching of the Word, an effectual "means of convincing and converting sinners, and of building "them up in holiness and comfort through faith unto salvation;" which is really the primary purpose of Church Discipline, the reclamation and restoration of sinners. Whether this alone is enough is another matter, but the fact remains that the life or conduct of Church members is now entirely beyond any effective control of the Church, except during the time of public Worship when such of them who observe that ordinance actually submit to the common mind of the Church, as it is expressed in the united act of worship; or, except in so far as that act impresses their conscience and influences their behaviour.

These, we suggest, are the chief reasons for the decline of the formal Church Discipline in the Church of Scotland which has been the subject of our study.

CHAPTER TEN.

Notes on the Development and the Present Position of Discipline in other Churches in Scotland.

I.—The Roman Catholic Church.

THE post-Reformation history of Roman Church Discipline in Scotland is a matter of more than academic interest, because of its present conflict with Scottish laws and customs, especially those relating to marriage. Yet it may briefly be sketched, because the discipline of the Roman Church in Scotland to-day is virtually that universally practised by Rome, except that a preponderantly Protestant environment reacts on it to keep it at a higher level than sometimes is the case in purely Roman Catholic countries.

The Roman Church continued small in numbers for a century after the Reformation. In 1687 there was a clerical conference of Roman Catholics at the residence of the Duke of Gordon.[1] One of the disciplinary measures resulting was that "Catholics who permitted their children to be brought up as Protestants, or who were married by 'ministers,' were to be refused the Sacraments."

It is interesting to know on the authority of Bellesheim that in the seventeenth century Roman Catholics attributed their defeat to the power and influence of the Protestant schools to which the Highland chiefs sent their sons to be educated.[2] That lesson they have never forgotten. And this question of education is not unconnected with discipline and its advance or its decay. The Reformed Church controlled the education of its people till 1872. In Protestantism there is now a divorce between Church and School. Romanism has

1 Bellesheim iv., p. 133. 2 *ibid.*, p. 152.

not forgotten the lesson of the sixteenth and seventeenth centuries and it keeps the education of its children in its own hands. That cannot but have a far-reaching effect upon the discipline of the Roman Church.

From 1695 to 1718, Scotland became a "mission" under Bishop Nicholson, the Vicar-Apostolic, and he divided the country into districts to each of which a missionary was assigned, and for the regulation of the mission he drew up in 1700 a code of Statutes, which regulated affairs in Roman Catholic Scotland till 1780, when a new code was promulgated by Bishop Hay.

All these *Statuta Missionis* are disciplinary in the wider sense, and many of the Canons deal with discipline in the aspects we have been considering. The third title deals with the authority of the Bishop, how the clergy are subject to him in the matter of hearing confessions, the cure of souls and the administration of the Sacraments, and how the worst cases of discipline are reserved for treatment by the Bishop—arson, homicide, duelling, incest in the first degree and burglary. Here we have a parallel to the reservation of the graver sins to be dealt with by the Presbytery in the Church of Scotland.

The fourth title is of the pastoral office. Confessors, for the sake of uniformity of discipline, are to be guided by the Roman Ritual and the instructions of S. Charles Borromeo. His was the manual or penitential for the Confessor enjoined at that time. It was not till 1756 Liguori produced his *Theologia Moralis*, which from 1803, when it was found by the Congregation of Rites free from matter deserving censure, became the directory for the Roman confessor. Under the same title it was also laid down that "public and scandalous "offenders are to be subjected to public penance." Public penance had not been entirely abolished before the Reformation, especially as the sentence of a Bishop's Court. But reappearing so long afterwards as this, it is evidently a concession to public opinion in Scotland, familiarised with public repentance in the Kirk. The sixth title says that they are to be

subjected to public penance and deprivation of the Sacraments who bring up their children in heresy.

The fifth title, dealing with the priestly life and character, shows a puritanic note which again can only be accounted for by the reaction of the Reformed standards upon the Roman discipline of this time. Priests are "to avoid taverns, have "no familiarity with the other sex, not publicly to join in field "sports or similar gatherings."

The eleventh title deals with Penance. The absolution of habitual sinners is to be deferred till they show signs of amendment. This too bears a great similarity to the reformed requirement of "satisfying the Kirk." Evidence of genuine repentance has first to be given. This, as we have seen, may also be required by the priest to-day, although now he may absolve and set the penance to be afterwards performed.

The twelfth title is of matrimony. It does not go so far as the modern discipline upon this subject. "Catholics "married by Protestant ministers are to do public penance." To-day such a marriage would be reprobated as no marriage at all according to the *Ne Temere* decree.

We have recounted some of these Statutes adopted by the Roman Church in 1700 as showing either parallels to reformed standards or the effects of reformed discipline upon the Roman. In 1829 the Catholic Emancipation Act removed practically all the disabilities that had been by law imposed on Roman Catholics; and in 1878 the Scottish Hierarchy was reconstituted, and the Roman Church carries on its work and discipline in Scotland much as it does anywhere else in the world. The effect of a Protestant environment is, however, not without influence upon all its activities.

As we have seen, the modern disciplinary law of the Roman Church which mostly affects Scotland and the reformed principles of religion is the *Ne Temere* decree.[1] The Church claims to be able to modify her law as she sees need.[2] Her matrimonial law is still subject to modifications; penance

1 *vide* pp. 179, 180. 2 Catholic Encyclopædia on "Discipline."

has undergone a profound evolution, which we have in some measure studied; her use of censures is largely in abeyance, and in this respect too she resembles the Protestant Church. "At present the Church rarely passes formal sentence of "excommunication. The individual is left to excommunicate "himself. But there is a number of sentences of excom- "munication which are incurred *ipso facto*, in the language of "the Canon Law; they are incurred as soon as a man performs "the action for which they are threatened, without any formal "declaration of the sentence. They are continually incurred "in our time, as in the case of apostasy."[1]

By the system of Indults, bishops receive indults or "powers to modify law to local requirements. Indults im- "press more strongly on the law of the Church that humane, "broad, merciful character, mindful of the welfare of souls, but "also of human weakness, which likens it to the moral law and "distinguishes it from civil legislation, which is much more "external and inflexible."[2] There is thus in the Church of Rome a power which, within well-defined limits, can adapt its law to local requirements, toning it down when the influence of environment is against it, or stiffening it up when it is for the general welfare of the Church so to do.

II.—The Episcopal Church in Scotland.

In the General Assembly of 1616, an Episcopal one, it was proposed to make a Book of Canons to promote uniformity of Church Discipline.[3] "It was to be published in wreit drawn "furth of the Books of formall [? former] Assemblies, and where "the same is defective that it be supplied by the Cannons of "Counsell and Ecclesiasticall Conventiones in former tyme.[3]" The Book of Canons so drawn up and imposed by royal authority in 1636 and the Service Book of 1637 were both

1 McCabe: Church Discipline, Ch. IX., p. 213. 2 Catholic Encyclopædia on "Canon Law." 3 Book of Universall Kirke, p. 596.

swept aside by the Assembly of 1638. It was not again possible for the Episcopal Church to try to draw up a complete code of Canons, and the purpose of a code, formulated in 1743, was simply to preserve the Episcopal succession in the Church, though not Established, and it served that purpose till the disabilities were legally removed in 1792.

Afterwards development began. A General Ecclesiastical Synod was held at Aberdeen in 1811, when a code of Canons for preserving and regulating the Order and Discipline in the Protestant Episcopal Church in Scotland was adopted and sanctioned. The original code has been revised, modified and added to several times. As a result of the last revision made by a Provincial Synod of the Episcopal Church in Scotland at meetings held in Edinburgh in October, 1925, and June, 1928, the Code of Canons, with the Appendix, passed, confirmed and enacted on the 12th March, 1929, will become after the 12th day of June, 1929, the Order and Discipline of the Episcopal Church in Scotland to be promulgated by the several Bishops in their respective dioceses.

It should be noted that the Episcopal Church, like the Church of Rome, does not seek *immutability* in its canons which relate to discipline. In the Roman Church the mutability of discipline is recognised. The discipline of the Roman Church relating to penance and indulgences has undergone a profound evolution; matrimonial law is still subject to modifications; fasting is not what it formerly was; the use of censures in penal law is but the shadow of what it was in the Middle Ages.[1] In the introduction to the 1851 edition of the *Canons of the Episcopal Church*, the following passage occurs:—"The "doctrine of the Church, as founded on the authority of "Scripture, being fixed and immutable, ought to be uniformly "received and adhered to at all times and in all places. The "same is to be said of its government, in all those essential "parts of its constitution which were prescribed by its adorable "Head. But in the Discipline, which may be adopted for

1 Catholic Encyclopædia—"Discipline," IV.

"furthering the purposes of Ecclesiastical Government, regulat-"ing the solemnities of public worship, as to time, place and "form, and restraining and rectifying the evils, occasioned by "human depravity, this character of *immutability* is not to be "looked for. The discipline of the Church is to be determined "by Christian wisdom, prudence and charity, and when any "particular Church has drawn up a body of Canons for its own "use, regard has always been had to its peculiar situation at "the time when its discipline was thus regulated."

This is true to the spirit for which Dr. John Forbes of Corse in his *Irenicum* pled as against the spirit of Presbyterian discipline. His argument therein, with regard to discipline, runs thus:—"The Presbyterians pressed their literal and 'scriptural' "discipline so far as to include suppression of processions "and plays, punishment, even excommunication of slanderous "persons, disturbing baptismal service, superstitious absence "from preaching, violating Sunday by shaving, witchcraft," as coming under the authority of the local Session with the support of the higher Courts. That discipline became a tyranny and was itself an "innovation." The Presbyterians had charged the Episcopalians with "innovations." The Episcopalians might justly urge that Presbyterian discipline of this type was an "innovation." Forbes reasoned that they of the Episcopal Church were controlled by Scripture but not in bondage to it, and "that they had power to take measures for "the order and peace of the Church in all charity." In the relevant passage of the *Irenicum* he urges that the scriptural revelation "has not dispensed future generations from the "exercise of corporate judgment and common-sense and from "the responsibilities attaching to every free and living society."[1] The possession of this spirit saved the discipline of the Episcopal Church from the Puritanism which invaded the Kirk in the seventeenth century. Its Canons date from 1811 and their frequent revision is proof that the doctrine of the mutability of discipline has been accepted in practice.

1 E. G. Selwyn: First Book of the *Irenicum* of Dr. John Forbes.

Discipline in other Churches

There is in the Canons provision in plenty for the discipline of the clergy, with four grades of censure for the guilty, but only in the Code of 1929 has some provision for the discipline of the people been made. Therein is found a new Canon, entitled *Of repelling from Holy Communion.* Hitherto discipline of this nature has been governed by the rubrics prefixed to the English Office for Holy Communion. By the rubrics, the curate shall warn an open and notorious evil liver, or one who has done wrong to his neighbours, that he presume not to come to the Lord's Table till he "openly declare himself to "have repented and amended, that the congregation may "thereby be satisfied," and that he make restitution to the parties whom he has wronged. "The same order shall the "curate use with those betwixt whom he perceiveth malice "and hatred to reign." Every minister so repelling must give notice to the Bishop within fourteen days of what he has done.

Action has been taken under that rubric from time to time. But the procedure is vague, and frequent occasions occurred when it was extremely inexpedient for the curate to proceed upon it. It was doubtless this difficulty which made a new Canon necessary. The new Canon is for the "safeguarding of "the holy mysteries and for the wellbeing of the Church," and declares the "inherent right of the Bishop of a Diocese to repel "offenders from Communion, for good and sufficient causes." The second and third paragraphs of the Canon enact in more legal form what the rubric directs, throwing the onus upon the Bishop and College of Bishops. In the discussion which took place in the Second Chamber upon this Canon when it was first proposed, one speaker said, "The Church was at issue "with the State on several important matters concerning holy "matrimony. If people taking advantage of the regulations of "the State went against the regulations of the Church, the "Church had to protect the Communion from profanation. "Were they not to have some opportunity of protecting the "Church's moral law against that much laxer law which had

"been adopted by the legislature of the country?"[1]

Thus, however charitable according to her professions a Church may desire to be, she may find occasionally that more stern methods are necessary, and unless she has provided the machinery, she may find herself impotent in the face of scandal and sin. The new Canon was drawn up after careful consideration, with the help of legal experts.[2] This, it is to be supposed, was necessary because of the possibility of conflict between the Canon Law and the law of the State on various issues.

It is worthy of note that in the *Scottish Book* the "Commination" is, on its own showing, a relic of the "godly "discipline of the Primitive Church," under which, "at the "beginning of Lent, such persons as stood convicted of "notorious sins were put to open penance and punished in "this world, that their souls might be saved in the day of the "Lord; and that others, admonished by their example, might "be the more afraid to offend." This last clause is a literal statement of the purpose of primitive discipline. And the first part of this service of Commination is a crude attempt to continue this discipline in a general way. It reminds us of the fulminations and threats of excommunication directed by the Roman Church against gross offenders. The first part of this service consists of the reading by the priest of the general sentences of God's cursing against impenitent sinners, gathered out of the twenty-seventh chapter of Deuteronomy, after each of which the people are to respond *Amen.*

In the *Scottish Book of Common Prayer* (1929) the title of this service is no longer "A Commination," but "A Penitential "Service, to be used on Ash Wednesday, and at other times." The first part of the service, as it at present stands, consisting of the Exhortation and the Curses, is omitted, and the rubric runs: "It is desirable that the minister should preach a "Sermon on God's judgments against impenitent sinners,

1 "Scotsman" Report, 9th October, 1925. 2 Bishop's Charge to Diocesan Synod of Moray and Ross, February, 1929.

"and in any case he shall rehearse the Ten Commandments "(the people saying their responses), and shall read as a "Lesson Luke 6, 20-26." Nothing shows the change of spirit in the discipline of this Church better than these alterations.

There is one other point of the Episcopal Church discipline to which reference should be made. Voluntary confession to the minister is invited. A rubric appoints that, "When the "Presbyter giveth warning of the Holy Communion he may, at "his discretion, use the first or the second of the exhortations "appended to this Liturgy." In the first, which is generally used (always upon Palm Sunday and usually before the great festivals of the Church), except where negligence to communicate makes the reading of the second preferable, the Presbyter warns all intending communicants "to confess your- "selves to Almighty God, with full purpose of amendment of "life. And if ye shall perceive your offences to be such as are "not only against God, but also against your neighbours; then "ye shall reconcile yourselves unto them; being ready to "make restitution and satisfaction, according to the uttermost "of your powers, for all injuries and wrongs done by you to "any other, ..." Further, "if there be any of you, who by "this means cannot quiet his own conscience herein, but "requireth further comfort or counsel, let him come to me, or "to some other discreet and learned Minister of God's Word, "and open his grief; that by the Ministry of God's holy Word "he may receive the benefit of absolution, together with "ghostly counsel and advice, to the quieting of his conscience, "and avoiding of all scruple and doubtfulness."

In these words there is no explicit demand for satisfaction or penance, the confession, with restitution, and the desire for spiritual counsel being accepted apparently as all the overture a sinner can make to God and man for peace of soul. But as a matter of fact, the practice of the Confessional seems to be regular in this Church, the Minister hearing confession, giving such spiritual direction as he thinks fitting, pronouncing absolution and prescribing a penance. Absolution is deferred

till penance is done, if there be a doubt of genuine penitence. Its use is justified by tradition. Behind the *Scottish Book of Common Prayer* there is the whole historical background of the mediaeval Church, and it is held that the book can only be interpreted by reference to traditional usages. In the mediaeval Church the universal custom was to confess before Lent, to do penance in Lent, and to communicate on Easter Day. This exhortation is always read on Palm Sunday, inviting the people to come to Holy Communion on Easter Day, and the ancient practice of confession and penance is held to be implicit in the words, "ghostly counsel and advice," that are given by the minister together with the absolution. Further, it is argued that although the Confessional receives in the Liturgy no explicit support, some support is found for it in the Commination Service. In the exhortation thereof reference is made to the godly discipline of the Primitive Church, whereby at the beginning of Lent notorious sinners were put to open penance, and the hope is expressed that such discipline may be restored again. It has been held that if the Liturgy thus supports public penance, it cannot reasonably be taken as abrogating private penance. But this support has been taken away, inasmuch as the Exhortation at the beginning of the Commination Service is omitted from the *Scottish Book of Common Prayer* of 1929. The position therefore of "sacramental" Penance is not clear. All that can be definitely said about this exhortation, which is appended to the Liturgy, is that thereby the Church does make provision in an open and authoritative way for what is often a human need. There are many sins, apart from those affecting the physical side of man's nature, that may not cause open scandal to others and yet are a source of great spiritual concern to those they assail. The Church is wise to make provision for the treatment of such.

III.—The Discipline of the United Free Church of Scotland.

The Discipline of the United Free Church of Scotland is governed by Chapter VII. of their *Practice and Procedure in the United Free Church of Scotland.* In seven sections the technical rules of procedure are given very exhaustively and explicitly. It is a modern form of process. There is not much that calls for attention as being in any way new or unique or adding anything of value to this function of the Church.

Section I. deals with discipline in general and different kinds of Church censure, and is really the only one that need concern us. The warrant for discipline and the end it serves are scriptural and not unlike those of the older formularies. The grounds of discipline are sin or offence either of doctrinal error or conduct, especially if aggravated by publicity and scandal to the cause of religion. If the sins be in their nature private, private admonition may suffice. It is to be noted that it does not, after the fashion of the *Second Book of Discipline* or the *Form of Process*, particularise sins or divide them into lesser and greater, the latter of which only the Presbytery or the Bishop could deal with. Scripture and its exposition by the *Confession of Faith*, "as accepted by this Church," are the standards by which the faith and conduct of ministers and people are tested. The older *Form of Process* puts it:— "Nothing ought to be admitted by any Church judicatory as "the ground of a process for censure, but what hath been "declared censurable by the Word of God, or some act or "universal custom of this national Church agreeable thereto." The lack of a statement of particular sins (though the one in the *Form of Process* is wholly inadequate) leaves it open to define what is sin according to the Scriptures. In the face of the modern conception of social sins and in the face of the conflict of Christianity with the State's views of morality, such vagueness may not serve the Church very long.

The censures are five in number:—

(1) (a) admonition, (b) rebuke.
(2) Suspension from full Communion.
(3) Suspension from office.
(4) Deposition.
(5) Excommunication.

All of them are known in the Church of Scotland, and the enumeration is not unlike that of the *Form of Process.*[1]

Section I., par. 8 states:—"These censures are not of the "nature of penance or satisfaction in order to remission of sin; "neither of punishment or retributive justice, but are means of "grace for recovery of the erring, the protection of Christ's "people from occasions of stumbling, and the edification of the "Church." A disavowal like this is not perhaps of much use in view of the history of "censures" and what "censures" in practice very often came to mean. We have already considered (p. 158) how in spite of the official teaching to the contrary, ecclesiastical censures after the time of the *Westminster Confession of Faith* virtually took on the character of punishments. The United Free Church in claiming a common heritage with the Church of Scotland inherits also this popular interpretation of "censure" as a judicial sentence or penalty in spite of the disavowal of such a conception. Certainly an offender by the spirit of humility in which he may accept a "censure" may turn it into a "means of grace." But a means of grace cannot be imposed by a minister or a Court upon another party, as a censure always is.

A means of grace is sought for by a penitent, and an opportunity must be given for voluntary confession as the means of access to it. Penance, according to the Primitive Church and the modern Church of Rome, is sought for by the penitent: in the early days of the Reformed Church penitents craved also to be admitted to make *satisfaction*, and in both cases were by priest or court formally admitted, and thus both were truly "means of grace." The priest "imposes" the

1 For a fuller discussion of "Censures" in *The Basis and Plan of Union* (1928) *vide* pp. 144-145.

penance now only in the sense that he determines the appropriate penance and the amount of it. But a judicially imposed means of grace is a contradiction in terms and in fact. The "censures" here described as "means of grace" are "censures" because the offender is accused by *fama* or complaint or libel, and even if he confesses, it is under the pressure of a court. Any future formulation of discipline must be clearer in the use of terms than the Reformed Church in Scotland has in the past been.

Sections, II. to VI. inclusive, treat of the rules of technical procedure in Sessions and Presbyteries; the discipline of members; of ministers, elders, and probationers; of professors; the powers and functions of the General Assembly in cases of discipline, and of Presbyteries and Synods as Courts of Review.

Section VII. is "Of the Supervision and Restoration of Persons under Church Censure." Such supervision as is here delineated may be said to be a new feature of Presbyterian discipline, and somewhat redeems "censure" from being conceived of as a "sentence." "A person suspended, deposed or suspended "from full Communion, is still a member of the Church and "ought to attend on means of grace." Yet this is not altogether new. "And yit may not the Church receave ony "Excommunicat at his first request . . . And yit in the "mean tyme the Church may confort him be holsome admoni-"tion assuring him of God's mercy, if he be verily penitent; "he may also be admitted to the hearing of the Word; bot in "no wyse to participation of prayeris, neither befoir nor efter "the Sermon."[1] That recognises even an excommunicated person as having a limited right to instruction if not to participation in worship, even as the custom was in the early Church. It is true, however, that the full excommunication demanded that a man should be treated as a heathen man and a publican, in the belief that the awful spiritual isolation would drive him back to the Church.

1 *vide, The Order of Excommunication and Public Repentance.*

The second paragraph states that such kindly and helpful supervision shall be exercised by the Session, who may appoint one of their number to this duty. Not an easy task often, one would think, but it carries us back to the days of S. Columba, who put his penitents in charge of a "soul-friend," further back indeed to S. Basil, who resorted to such a plan with those under his discipline. The need of a spiritual director is implied in this expedient, and after all our study, one is not surprised that an evangelical need has already been supplied in a Catholic practice.

The second part of this section deals with "Restoration." If there be satisfactory evidence of penitence, restoration may be granted. It is the removal of the censure and the restoration to full Communion, with sometimes restoration to office and sometimes not, according to the nature of the censure. It looks largely like a matter of business; no form of words is given; no symbolism either before the congregation or in the court is suggested, as was used according to the old formularies.

Although Scripture is stated at the outset as the warrant for all Church discipline, there is no disposition to make use of the terms "remit and retain," or "bind and loose," and the word of universal usage in the Church, Catholic and Protestant, and in all the older Reformed standards, "absolution" is not so much as named. So that the happening upon something approaching Catholic practice in the work of supervision is, we conclude, of accident, when the terms universally used by the Church in connection with "restoration" are purposely avoided.

CHAPTER ELEVEN.

Conclusions.

CERTAIN conclusions regarding particular aspects of this whole subject of Church Discipline have been deduced as step by step we have traversed the field of inquiry. These points must be left with the consideration they have received as they emerged. We now concern ourselves with the question: has our study indicated any main lines of development of a new or improved system of Church Discipline? Different conclusions may very well be reached by different people; the whole subject is a very large and intricate one. It has had a history of its own as a "mark" of the true Church ever since Christ gave His commission to the Apostles to remit and to retain sins.[1] The subsequent growth of the penitential system and of Church Discipline has taken place in virtue of that commission and its clear development in the New Testament. We have traced its further development in the Apostolic and Sub-Apostolic Church, through the first centuries of early Church history down into the widening stream of the Mediæval Church, where its usages became diversified, the public penance of the earlier ages being preserved for the most part in the sentences and judgments of the "Courts of Christianity," while the discipline of the individual in life and conduct was taken up by the Sacrament of Penance. Then we saw the effect of the Reformation on this department of the Church's work, and have traced its main lines and tendencies as they have been manifested in Scottish Church history.

The course of this history has been like that of a stream, small at first, growing in volume, and then branching out into several main currents and interlacing streams as it has come

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1 S. John xx., 19-23.

upon rocks and islands that have divided it. To-day it is flowing in several channels, some deep, others shallow. Will it ever draw together again into one river in noble strength meeting the sea, or pitifully come to its end in a thousand trickles? Will there yet be one Holy Catholic Church? Why should we concern ourselves with such a question? Why should we cherish such a hopeless hope? Both the Roman Church and the Reformers believed that Church Discipline was a "mark" of the true Church. If such a "mark" be lost, what does that indicate—either that the Church itself is disintegrating, or that the nature of discipline itself is so changing that something new is taking the place of the older formal discipline? But is this new discipline, whatever it is (as we saw, it might be the discipline of preaching), fulfilling the purpose of the commission given by our Lord to His Church?

The question for us therefore to answer is: does this history indicate to us the main tendencies of the future development of Church Discipline? And we must largely confine this survey to the Church of Scotland or the united Church which may be born out of the union of the Church of Scotland and the United Free Church. Will there not then arise a need for Church Discipline, all the more so because what discipline we have has largely ceased because of our unhappy divisions? Anyhow, there will at once emerge the whole question of Church law. Much of the law of the Church of Scotland, as it recently existed, has almost already become obsolete, especially that part of it dealing with the ancient relation of the Church to the land. But much of it that is purely ecclesiastical has its roots in the far past, some of it, as we have seen, being the law of the pre-Reformation Provincial Councils.[1] *The Practice and Procedure in the Courts of the United Free Church* contains a law that, though it is based upon Presbyterian Church Government as declared in 1645, has both in matter and in form variations from the

1 *vide* Dr. Cooper's pamphlets on the Scottish Provincial Councils.

practices of the older Church. But this general question of law does not come within our province, except as illustrating the need there will be of unifying law and procedure for the new Church. And this, of course, will have to be done in the matter of Church Discipline, for two forms of procedure will, on the Union, immediately contend for adoption—the *Form of Process* of the Church of Scotland of 1707 (in its original form or the permissible alternative of the Act of 1902, VIII.) and Ch. VII. of the *Practice and Procedure in the United Free Church of Scotland.*

It will be surprising to some to learn that the *Form of Process* is not a relic, but has been brought back from the realm of virtual desuetude by the Church of Scotland Act, 1921. By the Second Article Declaratory it is set forth that the Church's discipline is in accordance with the *Form of Process* as it has been or may hereafter be interpreted or modified by acts of the General Assembly or by consuetude. As a matter of fact an overture was received by the Assembly of 1924, and remitted to a Committee to consider a change in the *Form of Process*, which would have had the effect of making it possible, in the case of proved inefficiency, of depriving a minister of his benefice without deposing him, (which at the same time would have brought the Church of Scotland into line with the United Free Church). This proposal was turned down on the ground that it was "unsafe and inexpedient to "proceed with the revision and alteration of the *Form of* "*Process* . . . . . until the Declaratory Articles . . . . . have "been adopted by an act of General Assembly in accordance "with the provision of that Statute."[1] These Articles have now been adopted by Act 1926, vii., as declaratory of the Constitution of the Church of Scotland in matters spiritual, and the way is now open to any modification of the *Form of Process.* Thus the *Form of Process* may yet play a large part in the determination of the future discipline of the united Church. What is best in both these formularies must be

1 Assembly Reports, 1925.

preserved and a resulting Form of Process or Manual of Church Discipline be forthcoming.

In any discipline that may emerge the following main heads must, we think, find place:—

I.—The Discipline of Ministers.

It will be agreed that in any Church the efficient discipline of the Ministry is most necessary. This Discipline may be divided into two branches:—

A.—Preventive Discipline or the Discipline of Superintendence.

B.—Censures.

A. This Preventive Discipline has been already dealt with under the heading of the history of Privy Censures and Presbyterial Superintendence, and there in a tentative way suggestions were given for the better supervision of the clergy. It was also suggested that if elders are members of Presbyteries on practically an equal footing with ministers, they should not be so entirely outwith the superintending discipline as they are at present. It is unnecessary to recapitulate what was therein written.[1]

It is recognised that the principal suggestion put forth for the giving of superintending power for a period to the Moderator of Synod may meet with serious objections, especially in a re-united Church. But it is believed that prevention is better than cure, that libels might be prevented by a system of discipline, which would bring its weight to bear on a minister when he needs help. At present there is too little power of initiating discipline when it would be of most avail, that is, when a man needs reproof or encouragement, before he hardens into that habit of life or contumacy of temper that is so hurtful to the whole Church. It is not impossible to believe that by efficient superintendence, however or by whomsoever

1 *Vide* pp. 134-137.

exercised, many sins of commission and omission, of temper and inefficiency, on the part of the clergy could be overcome.

It is to be hoped that any disciplinary system of superintending the ministers of the Church of Scotland after Union will take within its scope the power of regulating the translation of ministers within the Church. This probably opens up the big question of popular election, and the rights of the people, which is quite beyond our purview. But apart from that, harm is being done to the Church by her virtual renunciation of her power to direct the movements of her ministers. The Church should not allow them to become a law unto themselves. In many of the Councils of the ancient Church it was ordained that a bishop was not to be translated from one diocese to another. Nicaea declared that the translation of a bishop was null. The Sardican Council of 344 A.D. makes this apply to all ministers, and forbids bishops accepting ministers from other dioceses. The principle involved in this prohibition is that ministers are not ordained to an order of ministry, to exercise it pretty well where they like, but to a ministry in a definite place and to its exercise there. Consequently we find in the ancient Church, in the Canon Law and in the standards of the Reformed Church a continuously repeated prohibition against 'free ordination' or the '*ministerium vagum.*'

The *French Church Discipline*, Ch. I., Act X., says:—"Ministers cannot be elected without being assigned to a "particular charge, and *they shall belong to the flock* which has "been entrusted to their care; nor can any church lay claim "to a minister on the sole strength of a personal promise made "by him, without the sanction of the Colloquy or Provincial "Synod."

The *First Book of Discipline*, Ch. IV., 11, says:—"The "minister elected or presented, examined, and, as sayd is, "publickly admitted, may *neither leave the flock at his pleasure*, "to which he hath promised his fidelity and labours; we mean "not but that the whole church, or the most part thereof, for

"just considerations, may transfer a minister from one church "to another; neither mean we, that men who now serve as it "were of benevolence, may not be appointed and elected to "serve in other places; but *once being solemnly elected and "admitted, we cannot approve that they should change at their "own pleasure.*"

The *Second Book of Discipline* has this:—"They that are "callit unto the ministrie, or that offer themselves thereunto, "aucht not to be electit without ane certain flock be assignit "unto them" (IV. 2). "*Na pastor may leave his flock without "licence (advyce) of the provincial or national Assemblie*" (IV. 5).

Now the law in the letter may not be broken to-day. No minister can leave one parish for another without the consent of his Presbytery. But the point is that this law in its intention is really dead, and Presbyteries are frequently and usually consenting to ministers' "*changing at their own pleasure.*" Hurt is being done to the Church when a minister at his ordination in answer to the question "Do you accept of, and close with, "the call to be pastor of this parish, and promise through grace "to perform all the duties of a faithful minister of the Gospel "among this people?" answers "I do," and within a year sometimes or little more is doing his best to get out from "among this people."

The question is perhaps one of government rather than of discipline proper, and it is not without its economic solution. The souls in a remote country parish are as valuable to God as those in town or city, and if the Church desires to set a pastor over these souls, and he is married and has children to educate at a distant school or University, the Church must reward him according to his needs, not according to the statistical records of his congregation or parish. By a scientific and Christian mode of providing for the needs of her servants the Church may in a large measure solve this problem. But at present the law regarding the translation of ministers, the purpose of which is to make it clear that the ministers are the Church's servants—rather apostles or servants of Jesus

Christ—and must go where they are required or sent, and are therefore her chiefest ornaments, is practically in abeyance. There is only motion in the Church at present; no promotion; only the haphazard, restless flux of a changing ministry, which makes as much as anything for the break up of real discipline and of any serious attempt at the best distribution of the preaching and pastoral resources, that ought to be at the command of the whole Church. We venture to suggest that this is a form of indiscipline harmful to the Church's life and to the cause of Christ, which the Church after re-union should examine and amend.

B.—Censures of Ministers.

The framers of the *First Book of Discipline* did not set themselves above the discipline they instituted. "To discip-"line, must all the Estates within this realm be subject, as "well the rulers as they that are ruled; yea, and the preachers "themselves, as well as the poorest within the Kirk. And "*because the eye and mouth of the Kirk ought to be most single* "*and comprehensible, the life and conversation of the minister* "*ought to be diligently tried*"—(Ch. IX. 16).

That is the warrant for all the subsequent discipline of the ministers of the Church. The *Form of Process* carries on the tradition of the earlier *Books of Discipline*, that sin in the ministers is the worst thing that can befall the Church. "The "credit and success of the Gospel (in the way of an ordinary "mean) much depending on the entire credit and reputation of "ministers, their sound doctrine, and holy conversation, no "stain thereof ought lightly to be received, nor when it comes "before a judicature ought it to be negligently enquired into "or when found evident ought it to be slightly censured."[1]

The process against Ministers (also Elders and Probationers) in the *Practice and Procedure of the United Free Church* is based upon an equally serious view of their responsibility. To

1 Form of Process, vii., 2.

proceed to the extremity of censure is the last resort of the Church against her ministers and leaders, even in cases where it is for the purity and strength of the Church so to do. Occasions for such action will now and then arise. We have said something about sin not being amenable to courts and legislative procedure, but as long as the Church is a society in the world, standing for something distinct and definite, some form of law will be necessary to regulate her life and protect that distinctive character which is her *esse*. Especially will it be necessary for the Church to have a clear mind as to what are the offences in her ministers and office-bearers that are censurable in any degree. The Church, after re-union, will no doubt claim, as the Church of Scotland does now, that she is as much a *status cum imperio sibi proprio* as the Church of Rome has always claimed to be.

The procedure of the two churches should not be difficult to harmonise. Their degrees of censures are at present not dissimilar. Already a measure of harmony has been secured, for in the final *Basis and Plan of Union* (1928) a proposal (new to the Church of Scotland) contained in the earlier draft has been departed from.[1] The proposed deprivation of office, without actual deposition, was not a censure but a disciplinary measure which might have opened the way to a tyrannous interference with men fearlessly performing the duties of their office.

The Church, in drawing up a form of discipline to meet cases of default in ministers and office-bearers, should not forget that the history of procedure in this matter goes back, even in Scotland, to a time long prior to the Reformation. And the Church of Scotland working on the long recorded experience of both Catholic and Reformed times in this matter, the Canon Law, the *First* and *Second Books of Discipline*, the *Acts of Assembly*, the *Form of Process*, and the *Practice and Procedure in the United Free Church of Scotland*, should be able to produce a form of process fitted to cope with the

1 *Vide*, pp. 144, 145.

defects of its ministers and office-bearers in character and work.

II.—The Discipline of the Members of the Church; Correction and Reconciliation.

For ordinary members, too, as well as for ministers and office-bearers, the kinds of censure that have been found justifiable by experience, must continue to stand. Any sentence that is of the nature of punishment, that is, purely arbitrary, and not of the nature of remedial discipline, and untrue to the Church's own character, must not be used. If it is a privilege to be a member of the Church, to be officially deprived of any of the Church's ordinances until found worthy to receive them, will be judgment enough upon an offender. It will be a declaration by the Church of what is already a fact—that by sin unrepented of and continued in, a Christian is deprived of the highest things Christ Himself offers.

If the Church therefore is to have in its keeping the instrument of Excommunication and the graver censures, she must have a clear understanding of their import, the purpose and use of exclusion from her fellowship; and she will then recognise that that exclusion will only be dreaded the higher and purer her own life is. When men do not care whether they may share in the Church's life or not, it is a sign that the Church is not so compelling in her attractiveness as she should be.

The people also must be well instructed in truth, not merely in a vague pietism, which is all too common, but in a standard of objective truth in morals, so far as that is possible (a matter we shall touch on later). To be true to that moral test should be synonymous with loyalty to Christ and His Church; and it should be understood that without that outward, definite standard of truth in conduct and morals there is no real service of Christ, no promotion

of the ideal of the brotherhood of man and the kingdom of heaven represented in and by the Church. To commit any sin or offence deemed worthy of exclusion from any or all of the privileges of the Church, to be deemed unworthy of her fellowship would then convey to the offender and to others a sense of having done something injurious to the welfare of humanity. Nothing less than this should be the justification and the aim of any Church Discipline.

Consequently there is very great need for clear thinking and for a new definition by the Church of the terms which, both in Catholic and Protestant practice, have been used to describe the spiritual progress a man must go through from the time he is conscious of having committed sin till he is absolved by the Church, or reconciled to his brethren or at peace with himself and God. The difference between works done to prove the genuineness of one's penitence (the "satisfaction" required by the Reformed Church) and works done to work out of the soul the motions towards further sin (*i.e.*, following upon absolution, which is the doctrine behind the Roman view) is not so very great as it appears. It is an aspect of the old antinomy of faith and works.

A very important question emerges: who is to be the minister of this discipline or this process of reconciliation? In the Church of Rome history shows that, although the confession was always made to the bishop or penitentiary or the priest in private, the custom at first and for a long time was that the penance was made in public. Gradually, under one form of pressure or another, that became changed till the penance came to be made in private, and the reconciliation was also given privately, until at last, by the Fourth Lateran Council, the ministry of this individual spiritual discipline was put into the hands of the priest, and could be administered to the individual as often as there was need. In the Reformed Church, in the very first stage, where the offence was still private, any man might deal privately with his neighbour or bring it to one or two—an ideal form of dealing recommended

by our Lord. But though stated as a form in our standards, this cannot be claimed as an essentially reformed doctrine, and must be practised quite frequently by Christians of all churches. In the Reformed Church the minister of discipline was, as we saw, at first the whole congregation; then the Kirk Session, sometimes even the Presbytery; either of which bodies might and did order public appearances. These ceased; then appearances before Sessions ceased. The Act 1902, VIII., conferred the power of dealing with sinners on the minister and an elder or the minister alone; and to-day, where there is any attempt at formal discipline at all, it is in the hands of the minister officially, *i.e.*, by minute, or unofficially, *i.e.*, by virtue of his pastoral office and experience.

Thus the history of the discipline of the Christian Church, Catholic and Protestant, seems to point to the fact that a human soul cannot be dealt with by a court, but only by another individual. The Roman Church claims that the power her priests exercise in the confessional derives its authority from the whole body of the Church. At present in the Church of Scotland, the minister, unless acting strictly under the regulations of Act 1902, VIII., has no such authority behind him and cannot use any of the disciplinary instruments of the Church. Whether he should have such authority seems to be a question that should be faced, and if he should, how to invest him with such authority, with proper safeguards, seems a no less difficult problem.

III.—The Discipline of Preaching.

Preaching cannot be properly termed an instrument of discipline in the sense in which we have been using that word. Preaching, however, has always been regarded, both in Roman Catholic and Protestant practice, as instructional discipline and a means of building up the spiritual life. But by force of circumstance it has come to be almost the only instrument of discipline left to the Reformed Church. We must face the

fact that it has to a very large extent taken the place of correctional discipline. "In recent times the tendency among "churches using the English tongue is to forego as far as "possible the right of discipline, preferring to trust almost "wholly to the effect of the published exposition of the truth "from the pulpit and to the conscience of the Church "member."[1]

It must be admitted that before there can be discipline of a corrective kind, there must be discipline of the mind and conscience of Christian people. Sermons were not by any means neglected when correctional discipline was at its height in Scotland. Both were severe. Principal Ernest Barker said in his Stevenson Trust lecture on the influence of religion on national life and character that "Calvinism by its preachings "and disputations was an education, and the deep problems "which it handled made a nation of philosophers, a meta-"physical nation, though it also produced some measure of "dogmatism and some degree of angular intolerance."[2] Philosophy and metaphysics, however, though a severe mental discipline may not deeply affect the conscience, and the reaction in the pietistic preaching of the "evangelicals" affected the conscience without deeply informing the mind. If preaching is to discipline the conscience of our time it must be a preaching both to the heart and mind, based on sound doctrine and on intimate knowledge of modern problems. The duties of Christians in the modern world should be pressed home to their consciences, and shown to them to be implicit in the doctrines and dogmas of Christian truth and in the very nature of the Church.

Preaching must be largely ethical—and ethics are for the most part the subject of formal Church Discipline—because every truth of religion must find outward expression in the character and behaviour of men individually and socially. The temptation of preachers is to be content with generalities, to

1 Hasting's Dictionary of Religion and Ethics—Article on 'Discipline.'
2 *Scotsman* Report, 13th February, 1926.

give hearers a certain spiritual stimulus, to leave them content with an individualistic and pietistic interpretation of the Gospel. The preacher may leave in the mind of a hearer the thought, "selfishness is a hateful thing, I must not let myself become selfish," (the deepest application of that truth being the hearer's resolve to give up seizing the most comfortable chair in the room). But the preacher must go farther; he must try to get his hearer to put deeper questions than that to himself, e.g.:—"How am I to eliminate selfishness from business? does my demand for this thing at this low price mean perhaps that someone engaged in the production of it will have little means with which to buy the necessaries of life? Preaching should have the effect of bringing home to the conscience of all who hear it the question—what is to be the effect on my neighbours of the kind of life I want to live?

It will be admitted therefore that if preaching is to have this effect on life, it will require on the part of preachers a special knowledge of many of our modern problems—commerce, industry, finance, war, sport, gambling, intemperance, impurity, marriage, divorce, the influence of the stage, the cinema and literature on life, and as no one man can have a knowledge of all these things, it may be necessary for the Church to make authoritative pronouncements with regard to them. The preacher will then have behind him the ethical judgment of the Church on matters perplexing the minds of thoughtful men, and with his special training he can press home a standard of objective truth to his hearers.

There is hardly one of these subjects that we have just mentioned but has been for two thousand years the subject not only of preaching but of the formal discipline of the Church. Surely what the Church has dared to speak out against and to discipline in the past should not be ruled out of the sphere of her criticism now. But exact knowledge is wanted, and for this kind of preaching it may be necessary to have classes of special preachers, who, besides having the love of souls and the love of Christ in their hearts, shall have the necessary exact

knowledge of one or two of our modern problems, upon which they shall be qualified to bring to bear the full Christian ethic.

We can imagine no more powerful discipline the Church could exercise than Missions conducted upon these lines. The Mission is a characteristic Christian institution. In the Roman Catholic Church it is usually of a fortnight's duration and its purpose is to break in upon the Church's usual routine of ordinances with an intensive appeal through sermons to heart and mind. In the Reformed Churches, mission weeks of an "evangelical" character are fairly common, whatever their worth may be. But a Mission consisting of a strong concentration of Christian teaching and instruction, as applied to some particular aspect of life or problem of morals, would probably be found to command more attention than an ordinary mission week or a public meeting to protest against an evil. Such a Preaching Mission (with devotions for those who desired to have them) would be for the instruction and discipline of Christians, a challenge to unbelievers, and a reverent yet searching criticism of social life.

This suggestion is not pressed in such a way as to abolish all formal discipline. That would be of the nature of Erastianism, which claims only the right to teach and exhort, to instruct and persuade, while disavowing all right to rule or censure, as being the province of the Civil Magistrate, a right that can only be conferred on the Church by the civil authority. That view is not to be held. The Church is still to be "*status cum "imperio sibi proprio*," but in going back in some measure to the discipline of preaching, she is going back beyond Calvin, the rigorist disciplinarian, to Luther who was the first to regard preaching as an instrument of spiritual discipline and the two sacraments as the best means of preserving the purity of the Church. Luther insisted upon preaching as the chief element in the power of the Keys. That doctrine if it were over-ruled in the Scottish Church by the predominant influence of Calvin, found its way into the Augsburg Confession and other confessions after that model. Thus the discipline of preaching,

as a means of informing and correcting the conscience, is even an earlier disciplinary instrument of the Reformed Church than the formal Calvinistic constraints.

IV.—The Need for a New Christian Casuistry.

This need has been in some measure dealt with in the preceding section, where it was argued that if preachers are to speak with conviction against some of the evils that are to-day attacking society and the individual, they should have behind them the authoritative deliverance of the Church upon such matters. Preaching and the use of censures should be supplemented by a moral theology. The Church should unequivocally declare her mind for her people's guidance. In the mission field, for example, the missionaries have occasionally to lay down a hard and fast law, to obey which is to be Christian, to disobey to be heathen. In some districts of China it had been made an absolute rule that a convert had to stop the cultivation of opium; if any Christian was known to grow opium he was given the option of turning heathen again or having his opium crop destroyed. In the majority of these discipline cases the choice was usually to surrender the opium to destruction.[1]

Where liberty of conscience has been developed, it will never be possible to get such submission as that. But is conscience ever perfectly free, and does not its freedom grow through the discipline of such laws? And was it not by the exercise of Christian law as applied to the individual that Christian civilisation, as our review has shown us, was brought into being and nurtured in Europe? We have, in the earlier part of our study, seen the rise of casuistry. Casuistry was the science of dealing with the individual, of applying to his particular case the general Christian law. It developed into the discipline of the confessional. "It has thus become—

1 Report on China Inland Mission—*Aberdeen Press and Journal*—14th February, 1924.

"necessarily, indeed, and rightly for its own right purposes—"not an enunciation of how Christ would have men act, but "rather a statement of the minimum requirement, the easiest "terms on which a priest can give absolution to a penitent; or "even, when misused, an attempt to evade the plain meaning "of the moral law so as to keep slack consciences within the "terms of Christian Communion."[1] But before this casuistry could be applied there was the general law of the Church, the Christian expression of the common mind of the Church of Christ upon what constituted Christian conduct. The Church was the society of Christ's people and it was empowered by Him to declare what was lawful for its members and what was not. That was the commission to bind or loose, the warrant for the legislative authority of the Church.

That was the Church's warrant for making in its very first days its own law of marriage, which Athenagoras records its members boasted to have used instead of the Roman law. That was and is the Church's authority for her Christian law of marriage to day; that is why, as we have seen, the law of the Roman Church, acting through the *Ne Temere* Decree, has introduced a modern problem into Scotland; why the Church of England, through her law of marriage, finds herself to-day at variance with the State upon the subject of divorce; why even in Scotland a legal marriage is irregular because not solemnised by a minister before witnesses and after banns or publication; that is why the Reformed Church of Scotland, as we have seen, regarded marriage as a privilege not to be granted to offenders till they amended their ways; why Church members who to-day contract marriage without the blessing of the Church should be regarded as outwith the other privileges of the Church by their own will till such time as they do ask the Church's benediction.

It was in the exercise of her legislating power for the moral welfare of the Christian society that the Church for 1600 years continued to prohibit usury. In 1596, the General Assembly,

1 Bishop Gore—The Social Teaching of the Sermon on the Mount.

without promulgating any Christian law, yet made this declaration: "sacrilege in all estates, without any conscience, "growing continually more and more, to the utter undoing "of the Kirk and staying to the planting of the Gospel—cruel "oppression of the poor tenents, whereby the whole commons "of the country are utterly wrackit by the extreme dear setting "of their rooms and holding out of their corn by untimeous "teinding and extreme thraldom in services. Oppression under "pretext of law, by usury and by contracts against law, forstal-"ling of markets, ane regrateing by gentlemen burgesses and "commons, whereby the prices of victual is marvellously raised, "to the great hurt of the poor, and suchlike girnelling of vic-"tuals, and withholding of them from markets and not threshing "them out in due time." Clearly at that time the Church had a social outlook, and realised that the social conditions of the time were inimical to the success of its own work, the planting of the Gospel. The Church as a whole to-day would not make such a declaration as to the oppression of the poor or the manipulation of markets.

In the *Second Book of Discipline* the Church claimed the right to criticise the civil authority: "The ministers exercise "not the civil jurisdiction, but teach the magistrate how it "should be exercised according to the Word" (Ch. I., 14). No doubt it was this attitude which offended King James and is yet resented by political leaders. But in all this there is the assertion of the claim which the Church throughout all her history has never ceased to make in one form or another, that the Church is the body of Christ, His society, and that the laws of that society must be Christian in letter and in spirit. The trouble is that unless the laws of the State in which the Church exists are the same or approximate to hers, the Christian law cannot be carried out in its entirety and conflict ensues, and the Church endeavours sometimes to make the law of the State conform to her own.

At anyrate, it is for the Church to formulate her law—or shall we put it?—organise Christian moral opinion upon some

of the great issues of life, the evils and problems of our day. The Church of Scotland has gone so far as to prepare a volume of papers on *Social Evils and Problems* (1918)—"a "basis of discussion which may in due time lead to definite "lines of action." It will require concentrated and intensive study to enable the Church to declare what she believes to be the Christian law binding upon the Christian conscience concerning things that are now largely believed to be of only secular concern. It would be all to the good if the Church could make clear pronouncements of Christian law upon such matters as the Christian use of Sunday, gambling, intemperance, impurity, avarice, luxury, business ethics, property and stewardship, and poverty and destitution. The consciences of many men are exercised about these things, and would welcome for their spiritual guidance and for the ordering of their attitude towards these problems and evils the considered and authoritative pronouncement of the Church.

For example, a statement for Christian people of the Church's conception of the right use of Sunday is long overdue. This fact is becoming clear, that the Church's appeal for the protection of the day to the Civil Magistrate or the industrial magnate is equally fruitless. Large economic interests are becoming involved. The practice is to protest against the further profanation of the day. But the present profanation can only be compared with the standards of the past. To what Sabbath would the protesters have us go back, to that of 200 years ago, or 50 years ago, or just before the War? When was the Sunday ideally kept? There is no answer. But a constructive attempt to define the purpose of the day and what kind of observance of its character should be obligatory upon Christians, should not be beyond the wisdom and devotion of the Church to formulate. Then there would be some direction having almost the force of a law, to which appeal could be made by the preacher, and by which judgment on entirely lax and contumacious Church members could be passed.

V.—The Encouragement of Confession.

One result of the decay of formal discipline is that there is now very little public opinion against some of the sins for which in earlier times people knew that they had "to satisfy "the discipline of the Church." Formerly people who knew that they were "under discipline" realised that they were automatically suspended from receiving the privileges of the Church or that they had virtually suspended themselves till they made such amends, some with real contrition, others, it may be admitted, with only the due formalities. Yet it was done. Confession or acknowledgment of sin was made, and the privileges of the fellowship were open to them. Now, as is well known to ministers in town and country, many of those who ought to know that by their actions they are unworthy to approach the mysteries, often come and seek the privileges of the Church as a right, without any sense of unworthiness or shame. If the minister has knowledge of their sin, it is then put upon him to deal faithfully with them. But that they should make the way easy for all concerned, administer a salutary medicine to their own souls, by a frank avowal of sin and contrition, never seems to enter into the minds of many. Half the misunderstandings and bitterness among men would be cured by the frank avowal—"I own to having done wrong. It was my fault. I am sorry." The sense of relief that comes from such confession is immeasurable. It disarms the offended. It nearly always secures forgiveness.

The Roman Catholic Church makes confession of sin to the priest at least once a year obligatory upon all the faithful. The Protestant objections to that system are many: its compulsory character; the impossibility of confessing the multitudinous sins of a year, even the sins of one day; who can do that when David said, "Who can understand his errors, cleanse thou me from secret faults?" But even the Church of Rome though such is its rule, secures from the majority of its faithful people confession about once a month, and though the con-

fession must be full, that can only mean such sins as weigh heavily on the conscience of the penitent and that he can reasonably recall at the time of confession. It is urged against the Confessional that it makes the process a science of cases on the part of the priest, and each man a "case" instead of a human soul. Certainly the confessions heard may fall into the various categories of spiritual disease known to all who deal with human souls, but within those limits no two persons are alike and discretion is left to the priest to deal with the penitent as may seem best to him accordingly. To object to the fallibility of a human guide in spiritual matters is a somewhat unsafe thing to do, for then the same objection may be urged against advice and instruction given in other spheres, e.g., by very often irresponsible and unwise parents to children, or by teachers to pupils, or doctors to patients. All these have great responsibilities and great influence and this objection of human fallibility is not urged against them, even although much of that dealing is also in many ways under certain forms of compulsion.

The Reformed Church has not made confession compulsory, although, after the first steps have been taken to deal with an offender coming before a court as delated, or by way of *fama* or libel, confession is accepted; though then it is virtually exacted under the threat of process. In this sense "voluntary confession" was extolled by the early reformers. They regarded it as a sign of grace on the part of an offender to confess rather than let the process of probation drag on. But we have discovered no place in our standards where confession is encouraged on the part of a church member on his own initiative as an overture on his part for spiritual advice, comfort and solace. We certainly have pastoral dealing and probably much that passes under that name is not much different from what passes in the Confessional. But on pastoral visitation, talks with the individual are usually impossible, and, at any rate, a pastoral visitation will not always be at the time when the person visited is in most need of assistance.

Can there be any valid objection to an invitation to Christian people to confer with the minister on personal problems of sin and doubt that may be vexing them? Such an invitation would provide an opportunity for that type of spiritual discipline, which is at present not provided, and which at seasons of special trial must often be desiderated by perplexed souls. People—Church members too—are going to psycho-analysts and to Christian Scientists to get a type of absolution, to get the idea of evil driven out of their minds and so abolish even physical evil. Ought not the Church to invite its people to confer on such matters with its ministers, those who are its experts in the things touching the spiritual nature of man? Is there any reason why this discipline should be left to the Roman Church at one end of the scale and the non-denominational "mission" at the other? The one has "the Confessional," the other "the Inquiry Room." The missioner is probably more absolute and "infallible" in his methods than the priest. His alternatives are heaven or hell, salvation or damnation. "Your sins are forgiven"; "you have found Jesus"; "saved by the blood of Jesus," are his declarations.

The history of discipline in the Reformed Church of Scotland indicates, that if voluntary confession should ever be encouraged, the confessor should be the minister, for through the force of circumstances, as we have seen, what dealing there is with offenders has come back practically into his hands. But there is high authority for the minister being a spiritual director in this special way, and for this kind of voluntary confession. In the first place, the whole history of confession in the primitive church shows that it was private. "Every-"where so far as appears the confession of the penitent is "private."[1] In the primitive church the penance itself was in public, only the confession being privately made to the priest. So that private confession before and after the Fourth Lateran Council was really the mode, until, for reasons well founded

1 Watkins—"A History of Penance" p. 481.

at the time, the Reformers insisted on confession to a court.

But, in the second place, the direction of S. James—"Confess therefore your sins one to another" (James v., 16)—is the warrant for this confession. It is the *locus* of the Roman Church for the Confessional. But this is what Calvin says about this text and confession generally—"by not specifying "any particular individual into whose bosom we are to "disburden our feelings, James leaves us the free choice of "confessing to any member of the Church who may seem "fittest; yet as for the most part pastors are to be supposed "better qualified than others, our choice ought chiefly to fall "on them. And the ground of preference is, that our Lord, "by calling them to the ministry, points them out as the "persons by whose lips we are to be taught to subdue and "correct our sins, and derive consolation from the hope of "pardon. For as the duty of mutual admonition and correc-"tion is committed to all Christians, but is specially enjoined "on ministers, so, while we ought all to console each other "mutually, and confirm each other in confidence of the divine "mercy, we see that ministers, to assure our consciences of the "forgiveness of sins, are appointed to be the witnesses and "sponsors of it, so that they are themselves said to forgive sins "and loose souls (Matt. xvi., 19, xviii., 18). When you hear "this attributed to them, reflect that it is for your use. Let "every believer, therefore, remember, that if in private he is so "agonised and afflicted by a sense of his sins that he cannot "obtain relief without the aid of others, it is his duty not to "neglect the remedy which God provides for him, viz., to have "recourse for relief to a private confession to his own pastor, "and for consolation privately implore the assistance of him "whose business it is, both in public and private, to solace the "people of God with Gospel doctrine. . . . Confession of "this nature ought to be free so as not to be expected of all, "but only recommended to those who feel that they have need "of it. . . . Those who use it . . . must neither be com-"pelled . . . to enumerate all their sins, but only so far as

"they shall deem it for their interest, that they may obtain "the full benefit of consolation."[1] Calvin goes on to speak of the second form of confession founded on St. Matt. v. 23, 24, "'If thou bring thy gift to the altar, and there rememberest "that thy brother hath ought against thee; leave there thy "gift before the altar, and go thy way; first be reconciled to "thy brother, and then come and offer thy gift.'" "This "includes the confession of those who, by their sin, have "given offence to the whole Church . . . Meanwhile, that "the flock present themselves before the pastor whenever they "would partake of the Holy Supper, I am so far from dis-"approving, that I am most desirous it should be everywhere "observed. For both those whose conscience is hindered "may thence obtain singular benefit, and *those who require* "*admonition* thus afford an opportunity for it; provided always "no countenance is given to tyranny and superstition."[2]

This gives warrant for the invitation to confess in the Exhortations appended to the English Office.

And Calvin goes on thus—"Nor is private absolution of "less benefit or efficacy when asked by those who stand in "need of a special remedy for their infirmity. It not seldom "happens that he who hears general promises that are "intended for the whole congregation of the faithful, never-"theless remains somewhat in doubt, and is still disquieted in "mind, as if his own remission were not yet obtained. Should "this individual lay open the secret wound of his soul to his "pastor, and hear these words of the Gospel specially "addressed to him, 'Son, be of good cheer; thy sins be "forgiven thee,' (Matt. IX. 2) his mind will feel secure, and "escape from the trepidation with which it was previously "agitated."

This power of binding and loosing, Calvin insists, is annexed to the preaching of the Word, and not to be divorced from preaching. To this doctrine of confession it is felt little objection can be urged; its adoption would give us

1 Calvin: Institutes, Book III., Ch. iv., 12. 2 *ibid.* Ch., iv., 13.

a point of community with the Episcopal Church and bring us a little on the way to that wider unity of the Church so much desired and required.

A recent very pertinent declaration on this subject has been made by the Rev. Dr. Fosdick, pastor of New York Baptist Church, to a gathering of Free Church Ministers. "Our Roman Catholic brethren have nearly wiped us off the stage in one feature of human service. Through the Confessional they have built up an amazing service for the treatment of sick souls, and we have nothing to compare with it." Many who are familiar with Dr. Fosdick's work and teaching will learn with interest that for six years he has conducted his own confessional, and that he will never relinquish such valuable practice.[1]

Thus, whether believers in Roman Confessional or Protestant Confession, both sides claim, and both sides can show reasons for believing, that this discipline derives its authority from the whole Church; and if so, its ministry may be entrusted to one man under that safeguard.

The very term "Church Discipline" stands in marked contrast to the lack of discipline which in all spheres of human activity is so evident to-day. There is chaos everywhere. The problem of the world is to find a unity that shall make the nations of men a brotherhood, and not hostile states ready to bring an end to one another's existence. The problem of the individual nation is similar, to bring a unity out of the various contending classes of men. Diplomacy, political negotiations, and leagues of one kind or another are at work, but apparently with little sign of success. "If order "is ever to make its appearance in the world, it will have to "appear first in the mind of man."[2] Though the Church has

1 Report in "*The Daily News*," February, 1927. 2 A. J. Penty: Towards a Christian Sociology.

not so far given the best example of unity, yet can any other power in the world compete with Christianity as a unifying influence in human affairs? Christianity alone has the vision of a redeemed and unified world, and is itself the truth by which mankind can reach this ideal.

From this study, Church Discipline appears to be the method by which the Church has endeavoured to preserve a common mind on matters of faith and conduct. The Church has defended with great care the Faith once delivered to the saints by Christ. She enshrined it in her doctrines and dogmas, and began to apply its eternal truth to the life of the world. Then came the great attacks upon the Faith, and the Church fulminated against all heresies, believing that if this Faith were destroyed the one unifying principle of life would be destroyed and the one hope of the world shattered. It is this fear which has through all her history urged her to deal faithfully with all subversive teaching. It has been her desire for a common standard of life and morals which has been the main urge—if not the invariable one—behind all her Canon Law, her penitential discipline, and even her attempted control of states and rulers.

She has not yet given up the hope of a world redeemed and unified through the exercise of her discipline under the guidance of the Holy Spirit. She is aware of her own failure, and more aware than any other institution of the failure of mankind to envisage a social unity of life on earth, the very outposts of the eternal Kingdom of God. We doubt not but the visions of her own unity which are ever before her eyes are part of that discipline that she has in reserve for the training of her people to a greater unity of mind and spirit, of faith and works. She is studying in all her branches the problems of politics, economics, and citizenship, and in time there will be born in the Church, through this discipline and the new and true casuistry that will emerge, a common mind upon the problems of human life; and when the common mind is created again in the Church, the Church will not be

far from the Kingdom of Heaven. The principle behind all her disciplinary endeavour is love of Christ and the souls of men, and increasingly must the constraint of her discipline be felt to be that of Love.

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Date Due

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APR 24 1969

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PRINTED IN U. S. A.

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Clark, Ivo MacNaughton

AUTHOR
A history of church discipline in Scotland.

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